

MONTANA LEGISLATIVE HISTORY

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_____ ☐ c

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SENATE BILL NO. 76

INTRODUCED BY

Deely (By request of the Governor) Watt, Romney

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLITICAL CAMPAIGN REPORTING REQUIREMENTS; CREATING THE POSITION OF COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES; AUTHORIZING THE COMMISSIONER, IN CONJUNCTION WITH THE COUNTY ATTORNEYS, TO ENFORCE MONTANA'S ELECTION LAWS AND TO REGULATE MONTANA'S CAMPAIGN FINANCE LAWS AS SPECIFIED IN TITLE 23, R.C.M. 1947; SPECIFYING THE POWERS AND DUTIES OF COUNTY ATTORNEYS AND OTHER LOCAL OFFICIALS; REQUIRING CANDIDATES AND POLITICAL COMMITTEES TO DESIGNATE A CAMPAIGN TREASURER AND A CAMPAIGN DEPOSITORY; AUTHORIZING THE CREATION OF A PETTY CASH FUND FOR ALL CANDIDATES AND POLITICAL COMMITTEES; AUTHORIZING CITIZENS TO BRING ACTIONS TO FORCE COMPLIANCE WITH THIS ACT; PROVIDING CIVIL AND CRIMINAL PENALTIES; AMENDING SECTION 23-4701; REPEALING SECTIONS 23-4722, 23-4725, 23-4726, 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733, 23-4734, 23-4735, 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, AND 23-4775; AND PROVIDING FOR AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Statement of purpose. It is the purpose of this act to establish clear and consistent requirements for the full disclosure and reporting of the sources and

disposition of funds used in Montana to support or oppose candidates, political committees, or issues, and to consolidate and clarify the authority to enforce the election and campaign finance laws as specified in Title 23, R.C.M. 1947.

Section 2. Definitions. As used in Title 23, chapter 47, R.C.M. 1947: (1) "Candidate" means an individual who has filed a declaration of nomination, certificate of nomination, or acceptance of nomination for public office as required by law, but does not include a candidate for national office who is subject to the provisions of federal election campaign laws.

(2) "Commissioner" means the commissioner of campaign finances and practices as described in section 10 of this act.

(3) "Election" means a general, special, or primary election held to choose a public officer or submit an issue for the approval or rejection of the people.

(4) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection including, but not limited to, initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(5) "Public office" means a state, county, municipal,

1 school, or other district office that is filled by the
2 people at an election.

3 (6) "Contribution" means:

4 (a) an advance, gift, loan, conveyance, deposit,
5 payment, or distribution of money or anything of value to
6 influence an election;

7 (b) a transfer of funds between political committees;

8 (c) the payment by a person other than a candidate or
9 political committee of compensation for the personal
10 services of another person that are rendered to a candidate
11 or political committee; but

12 (d) "contribution" does not mean services provided
13 without compensation by individuals volunteering a portion
14 or all of their time on behalf of a candidate or political
15 committee, nor meals and lodging provided by individuals in
16 their private residence for a candidate or other individual.

17 (7) "Expenditure" means a purchase, payment,
18 distribution, loan, advance, promise, pledge, or gift of
19 money or anything of value made for the purpose of
20 influencing the results of an election, but "expenditure"
21 does not mean:

22 (a) services, food, or lodging provided in a manner
23 that they are not contributions under this act; nor

24 (b) payments by a candidate for his personal travel
25 expenses or for food, clothing, lodging, or personal

1 necessities for himself and his family.

2 (8) "Anything of value" means any goods that have a
3 certain utility to the recipient that is real and that
4 ordinarily is not given away free, but is purchased.

5 (9) "Political committee" means a combination of two
6 or more individuals, or a person other than an individual,
7 the primary or incidental purpose of which is to support or
8 oppose a candidate or issue or to influence the result of an
9 election by any expenditure.

10 (10) "Individual" means a human being.

11 (11) "Person" means an individual, corporation,
12 association, firm, partnership, cooperative, committee,
13 club, union, or other organization or group of individuals,
14 or a candidate as defined in subsection (1) of this section.

15 Section 3. Reports of contributions and expenditures
16 required. (1) Each candidate and political committee shall
17 file periodic reports of contributions and expenditures made
18 by or on the behalf of a candidate or political committee.
19 All reports required by this section shall be filed with the
20 commissioner and with the county clerk and recorder of the
21 county in which a candidate is a resident or the political
22 committee has its headquarters. However, where residency
23 within a district, county, city, or town is not a
24 prerequisite for being a candidate, copies of all reports
25 shall be filed with the county clerk and recorder of the

1 county in which the election is to be held, or if the
2 election is to be held in more than one county, with the
3 clerk and recorder in the county that the commissioner shall
4 specify.

5 (2) In lieu of all contribution and expenditure
6 reports required by this act, the commissioner shall accept
7 copies of the reports filed by candidates for congress and
8 president of the United States, and their political
9 committees, pursuant to the requirements of federal law.

10 (3) Candidates for a state office filled by a
11 statewide vote of all the voters of Montana, the political
12 committees for such candidates, and political committees
13 organized to support or oppose a statewide issue, shall file
14 reports:

15 (a) on the tenth day of March and September, in each
16 year that an election is to be held, and on the fifteenth
17 and fifth days next preceeding the date on which an election
18 is held, and within twenty-four (24) hours after receiving a
19 contribution of five-hundred dollars (\$500) or more at any
20 time after the last pre-election report;

21 (b) not more than twenty (20) days after the date of
22 the election;

23 (c) on the tenth day of March and September of each
24 year following an election so long as there is an unexpended
25 balance or an expenditure deficit in a campaign account; and

1 (d) whenever a candidate or political committee
2 finally closes its books.

3 (4) Candidates for a state district office, including
4 but not limited to, candidates for the legislature, public
5 service commission, or district court judge, their political
6 committees, and political committees organized to support or
7 oppose district issues, shall file reports:

8 (a) on the tenth day next preceeding the date on which
9 an election is held, and within twenty-four (24) hours after
10 receiving a contribution of one hundred dollars (\$100) or
11 more at any time after the last pre-election report;

12 (b) not more than twenty (20) days after the date of
13 the election;

14 (c) whenever a candidate or political committee
15 finally closes its books.

16 (5) Candidates for any other public office, their
17 political committees, and political committees organized to
18 support or oppose local issues, shall be required to file
19 the reports specified in subsection (4) only if the total
20 amount of contributions received or the total amount of
21 funds expended for an election, excluding the filing fee
22 paid by the candidate, exceed two hundred dollars (\$200).

23 (6) All reports required by this section shall be
24 complete as of the date prescribed by the commissioner,
25 which shall not be less than five (5) or more than ten (10)

1 days before the date of filing as specified in subsections
2 (2) through (5) of this section.

3 (7) The commissioner shall adopt rules and regulations
4 that will permit political committees, including political
5 parties, to file copies of a single comprehensive report
6 when they support or oppose more than one candidate or
7 issue.

8 (3) Reports filed under this section shall be filed to
9 cover the following time periods:

10 (a) The initial report shall cover all contributions
11 received or expenditures made by a candidate or political
12 committee prior to the time that a person became a candidate
13 as defined in subsection (1) of section 2 until the date
14 prescribed by the commissioner for the filing of the
15 appropriate initial report pursuant to subsections (2)
16 through (5) of this section.

17 (b) Subsequent periodic reports shall cover the period
18 of time from the closing of the previous report to a date
19 prescribed by the commissioner, which shall not be less than
20 five (5) days or more than ten (10) days before the date of
21 filing;

22 (c) Final reports shall cover the period of time from
23 the last periodic report to the final closing of the books
24 of the candidate or political committee.

25 Section 4. What reports must disclose. Each report

1 required by this act shall disclose: (1) The amount of
2 cash on hand at the beginning of the reporting period.

3 (2) The full name and mailing address (occupation and
4 the principal place of business, if any) of each person who
5 has made aggregate contributions, other than loans, of
6 twenty-five dollars (\$25) or more to the candidate or
7 political committee (including the purchase of tickets for
8 events such as dinners, luncheons, rallies, and similar
9 fund-raising events) within the reporting period together
10 with the aggregate amount of those contributions, and the
11 total amount of contributions made by that person.

12 (3) The total sum of individual contributions made to
13 or for the political committee or candidate and not reported
14 under subsection (2) of this section.

15 (4) The name and address of each political committee
16 or candidate from which the reporting committee or candidate
17 received any transfer of funds together with the amount and
18 dates of all those transfers.

19 (5) Each loan from any person during the reporting
20 period together with the full names and mailing addresses
21 (occupation and principal place of business, if any) of the
22 lender and endorsers, if any, and the date and amount of
23 each loan.

24 (6) The amount and nature of debts and obligations
25 owed to a political committee or candidates in the form

1 prescribed by the commissioner.

2 (7) An itemized account of proceeds from:

3 (a) the sale of tickets to each dinner, luncheon,
4 rally, and other fund-raising events;

5 (b) mass collections made at such an event; and

6 (c) sales of items such as political campaign pins,
7 buttons, badges, flags, emblems, hats, banners, literature,
8 and similar materials.

9 (3) Each contribution, rebate, refund, or other
10 receipt not otherwise listed under subsections (2) through
11 (6) of this section during the reporting period.

12 (9) The total sum of all receipts received by or for
13 the committee or candidate during the reporting period.

14 (10) The full name and mailing address (occupation and
15 the principal place of business, if any) of each person to
16 whom expenditures have been made by the committee or
17 candidate during the reporting period, including the amount,
18 date, and purpose of each expenditure and the total amount
19 of expenditures made to each person.

20 (11) The full name and mailing addresses (occupation
21 and the principal place of business, if any) of each person
22 to whom an expenditure for personal services, salaries, and
23 reimbursed expenses have been made, including the amount,
24 date, and purpose of that expenditure and the total amount
25 of expenditures made to each person.

1 (12) The total sum of expenditures made by a political
2 committee or candidate during the reporting period.

3 (13) The name and address of each political committee
4 or candidate to which the reporting committee or candidate
5 made any transfer of funds together with the amount and
6 dates of all those transfers.

7 (14) The name of any person to whom a loan was made
8 during the reporting period, including the full name and
9 mailing address (occupation and principal place of business,
10 if any) of that person, and the full name and mailing
11 address (occupation and principal place of business, if any)
12 of the endorsers, if any, and the date and amount of each
13 loan.

14 (15) The amount and nature of debts and obligations
15 owed by a political committee or candidate in the form
16 prescribed by the commissioner.

17 (16) Other information that may be required by the
18 commissioner to fully disclose the sources and disposition
19 of funds used to support or oppose candidates.

20 Section 5. Reports must be certified as true and
21 correct. (1) A report required by this act to be filed by a
22 candidate or political committee shall be verified as true
23 and correct by the oath or affirmation of the individual
24 filing the report. The individual filing the report shall
25 be the candidate or an officer of a political committee who

is on file as an officer of the committee with the commissioner. The oath or affirmation shall be made before an officer authorized to administer oaths.

(2) A copy of a report or statement shall be preserved by the individual filing it for a period of time to be designated by the commissioner.

(3) The commissioner may promulgate rules and regulations regarding the extent to which organizations that are not primarily political committees, but are incidentally political committees shall report their politically related activities in accordance with this act.

Section 6. Campaign treasurer and campaign depository.

(1) Each candidate for nomination or election to office and each political committee shall appoint one (1) campaign treasurer. No contribution shall be received or expenditure made by or on behalf of a candidate or political committee until the candidate or political committee appoints a campaign treasurer and certifies the name and address of the campaign treasurer pursuant to this section. The certification, which shall include an organizational statement, properly acknowledged by a notary public, and setting forth of the name and address of the campaign treasurer and all other officers, if any, of the political committee, shall be filed with the commissioner and the appropriate county clerk and recorder as specified for the

filing of reports in section 3.

(2) A campaign treasurer may appoint deputy campaign treasurers, but not more than one (1) in each county in which the campaign is conducted. Each candidate and political committee shall certify the full name and complete address of the campaign treasurer and all deputy campaign treasurers with the office with whom the candidate or the political committee is required to file reports.

(3) Any campaign or deputy campaign treasurer appointed pursuant to this section shall be a registered voter in this state. An individual may be appointed and serve as a campaign treasurer of a candidate and a political committee or two (2) or more candidates and political committees. A candidate may appoint himself as his own campaign or deputy campaign treasurer. No individual may serve as a campaign or deputy campaign treasurer or perform any duty required of a campaign or deputy campaign treasurer of a candidate or political committee until he has been designated and his name certified by the candidate or political committee.

(4) Deputy campaign treasurers may exercise any of the powers and duties of a campaign treasurer as set forth in this act when specifically authorized in writing to do so by the campaign treasurer and the candidate in the case of a candidate, or the campaign treasurer and the chairman of the

1 political committee in the case of a political committee.

2 (5) A candidate or political committee may remove his
3 or its campaign or deputy campaign treasurer. The removal
4 of any treasurer or deputy treasurer shall immediately be
5 reported to the officer with whom the name of the campaign
6 treasurer was originally filed. In case of death,
7 resignation, or removal of his or its campaign treasurer
8 before compliance with any obligation of a campaign
9 treasurer under this act, the candidate or political
10 committee shall appoint a successor and certify the name and
11 address of the successor as specified in subsection (1) of
12 this section.

13 (6) Each candidate and each political committee shall
14 designate one (1) primary campaign depository for the
15 purpose of depositing all contributions received and
16 disbursing all expenditures made by the candidate or
17 political committee. The candidate or political committee
18 may also designate one (1) secondary depository in each
19 county in which an election is held and in which the
20 candidate or committee participates. Deputy campaign
21 treasurers may make deposits in and make expenditures from
22 secondary depositories when authorized to do so as provided
23 in subsection (4) of this section. Only a bank authorized
24 to transact business in Montana may be designated as a
25 campaign depository. The candidate or political committee

1 shall file the name and address of each primary and
2 secondary depository so designated at the same time and with
3 the same officer with whom the candidate or committee files
4 the name of his or its campaign treasurer pursuant to
5 subsection (1) of this section. Nothing in this subsection
6 shall prevent a political committee or candidate from having
7 more than one campaign account in the same depository.

8 Section 7. Deposit of contributions--statement of
9 campaign treasurer. All funds received by the campaign
10 treasurer or any deputy campaign treasurer of any candidate
11 or political committee shall be deposited prior to the end
12 of the fifth business day following their receipt (Sundays
13 and holidays excluded) in a checking account in a campaign
14 depository designated pursuant to section 6 of this act. A
15 statement showing the amount received from or provided by
16 each person and the account in which the funds are deposited
17 shall be prepared by the campaign treasurer at the time the
18 deposit is made. This statement along with the receipt form
19 for cash contributions deposited at the same time and a
20 deposit slip for the deposit shall be kept by the treasurer
21 as a part of his records.

22 Section 8. Treasurer to keep records--inspections.
23 (1) The campaign treasurer of each candidate and each
24 political committee shall keep detailed accounts, current
25 within not more than ten (10) days after the date of

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1 receiving a contribution or making an expenditure, of all
 2 contributions received and all expenditures made by or on
 3 behalf of the candidate or political committee that are
 4 required to be set forth in a statement filed under this
 5 act.

6 (2) Accounts kept by the campaign treasurer of a
 7 candidate or political committee may be inspected under
 8 reasonable circumstances before, during, or after the
 9 election to which the accounts refer by the campaign
 10 treasurer of any opposing candidate or political committee
 11 in the same electoral district. The right of inspection may
 12 be enforced by appropriate writ issued by any court of
 13 competent jurisdiction. The campaign treasurers of
 14 political committees supporting a candidate may be joined
 15 with the campaign treasurer of the candidate as respondents
 16 in such a proceeding.

17 (3) Accounts kept by a campaign treasurer of a
 18 candidate shall be preserved by the campaign treasurer for a
 19 period coinciding with the term of office for which the
 20 person was a candidate.

21 Section 9. Petty cash funds allowed. (1) The
 22 campaign treasurer for each candidate or political committee
 23 is authorized to withdraw the following amount each week
 24 from the primary depository for the purpose of providing a
 25 petty cash fund for the candidate or political committee:

1 (a) for all candidates for nomination or election on a
 2 statewide basis and all political committees operating on a
 3 statewide basis, one hundred dollars (\$100) per week; and

4 (b) for all other candidates and political committees,
 5 twenty dollars (\$20) per week.

6 (2) The petty cash fund may be spent for office
 7 supplies, transportation expenses, and other necessities in
 8 an amount of less than ten dollars (\$10). Petty cash shall
 9 not be used for the purchase of time, space, or services
 10 from any communications medium.

11 Section 10. Commissioner--how appointed,
 12 qualifications, and offices. (1) There is hereby created
 13 the position of commissioner of campaign finances and
 14 practices, who shall be appointed by a majority of a four
 15 (4) member selection committee which shall be comprised of
 16 the speaker of the house, the president of the senate and
 17 the minority floor leaders of both houses of the Montana
 18 legislature. However, if a majority of the members of the
 19 selection committee cannot agree upon the selection of a
 20 commissioner within thirty (30) days after the passage and
 21 approval of this act, the Montana supreme court shall
 22 appoint a fifth public member to the selection committee.
 23 The majority of the five (5) members of the selection
 24 committee shall then select the commissioner.

25 (2) The individual selected to serve as the

1 commissioner of campaign finances and practices shall be
2 appointed for a five (5) year term, but he shall thereafter
3 be ineligible to serve as the commissioner of campaign
4 finances and practices and shall be precluded from being a
5 candidate for public office as defined in this act for a
6 period of five (5) years from the time that his term as
7 commissioner expires.

8 (3) If for any reason a vacancy should occur in the
9 position of commissioner, a successor shall be appointed
10 within thirty (30) days as provided in subsection (1) to
11 serve out the unexpired term. An individual who is selected
12 to serve out the unexpired term of a preceding commissioner
13 shall be entitled to be reappointed for a five (5) year term
14 as provided in subsection (3).

15 (4) The commissioner may be removed from office by
16 impeachment as provided in sections 95-2801 and 95-2802,
17 R.C.M. 1947. He may also be prosecuted by the appropriate
18 county attorney for official misconduct as specified in
19 section 94-7-401, R.C.M. 1947.

20 (5) The commissioner of campaign finances and
21 practices shall receive the same salary as a state district
22 court judge and shall receive the same salary increases
23 awarded such judges.

24 (6) The office of the commissioner shall be attached
25 to the office of the secretary of state for administrative

1 purposes only as specified in section 82A-108, except that
2 the provisions of subsections (1)(b), (1)(c), (2)(a),
3 (2)(b), (2)(d), (2)(e), and (3)(a) of section 82A-103,
4 R.C.M. 1947, do not apply.

5 Section 11. Powers and duties of the commissioner. The
6 commissioner shall exercise the following powers and perform
7 the following duties: (1) The commissioner of campaign
8 finances and practices shall be responsible for
9 investigating all of the alleged violations of the election
10 laws contained in Title 23, R.C.M. 1947, and shall in
11 conjunction with the county attorneys, be responsible for
12 enforcing all of the state's election laws.

13 (2) The commissioner shall select an appropriate staff
14 to enforce the provisions of Title 23, R.C.M. 1947, and he
15 shall have the power to hire and fire all personnel under
16 his supervision.

17 (3) The commissioner may hire or retain attorneys who
18 are properly licensed to practice before the supreme court
19 of the state of Montana to prosecute violations of Title 23,
20 R.C.M. 1947. Any properly licensed attorney so retained or
21 hire shall exercise the powers of a special attorney
22 general and he shall have the power to prosecute, subject to
23 the control and supervision of the commissioner and the
24 provisions of section 13, any criminal or civil action
25 arising out of a violation of any provision of Title 23,

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1 R.C.M. 1947. All prosecutions shall be brought in the state
2 district court for the county in which a violation has
3 occurred or in the district court for Lewis and Clark
4 County. The authority to prosecute as prescribed by this
5 section includes the authority to:

6 (a) institute proceedings for the arrest of persons
7 charged with or reasonably suspected of criminal violations
8 of Title 23, R.C.M. 1947;

9 (b) attend and give advice to a grand jury when cases
10 involving criminal violations of Title 23, R.C.M. 1947, are
11 presented;

12 (c) draw and file indictments, informations, and
13 criminal complaints;

14 (d) prosecute all actions for the recovery of debts,
15 fines, penalties, and forfeitures accruing to the state or
16 county from persons convicted of violating Title 23, R.C.M.
17 1947; and

18 (e) do any other act necessary to successfully
19 prosecute a violation of any provision of Title 23, R.C.M.
20 1947.

21 (4) The commissioner shall prescribe forms for
22 statements and other information required to be filed
23 pursuant to Title 23, R.C.M. 1947, and furnish forms and
24 appropriate information to persons required to file
25 statements and information.

1 (5) The commissioner shall prepare and publish a
2 manual prescribing a uniform system for accounts for use by
3 persons required to file statements pursuant to Title 23,
4 R.C.M. 1947.

5 (6) The commissioner shall accept and file any
6 information voluntarily supplied that exceeds the
7 requirements of Title 23, R.C.M. 1947.

8 (7) The commissioner shall prescribe the manner in
9 which the county clerks and recorders shall receive, file,
10 collate, and maintain reports filed with them under Title
11 23, R.C.M. 1947.

12 (8) The commissioner shall make statements and other
13 information filed with his office available for public
14 inspection and copying during regular office hours, and make
15 copying facilities available free of charge or at a charge
16 not to exceed actual cost.

17 (9) The commissioner shall preserve statements and
18 other information filed with his office for a period of ten
19 (10) years from date of receipt.

20 (10) The commissioner shall prepare and publish
21 summaries of the statements received.

22 (11) The commissioner shall prepare and publish such
23 other reports as he may deem appropriate.

24 (12) The commissioner shall provide for wide public
25 dissemination of summaries and reports.

1 (13) The commissioner shall have the authority to
2 investigate all statements filed pursuant to the provisions
3 of Title 23, R.C.M. 1947, and shall also investigate alleged
4 failures to file any statement or the alleged falsification
5 of any statement filed pursuant to the provisions of Title
6 23, R.C.M. 1947. Upon the submission of a written complaint
7 by any individual, the commissioner shall also investigate
8 any other alleged violation of the provisions of Title 23,
9 R.C.M. 1947, or any rule or regulation adopted pursuant
10 thereto.

11 (14) The commissioner shall promulgate and publish
12 rules and regulations to carry out the provisions of Title
13 23, R.C.M. 1947, and shall promulgate such rules in
14 conformance with the Montana Administrative Procedure Act.

15 (15) The commissioner shall at the close of each
16 fiscal year report to the legislature and the governor
17 concerning the action he has taken, including the names,
18 salaries, and duties of all individuals in his employ and
19 the money he has disbursed. The commissioner shall also
20 make further reports on the matters within his jurisdiction
21 as the legislature may prescribe and shall also make
22 recommendations for further legislation as may appear
23 desirable.

24 (16) The commissioner shall be responsible for
25 preparing, administering and allocating the budget for his

1 office.

2 (17) The commissioner shall have the power to inspect
3 any records, accounts or books that must be kept pursuant to
4 the provisions of Title 23, R.C.M. 1947, which are held by
5 any political committee or candidate so long as such
6 inspection is made during reasonable office hours.

7 (18) The commissioner shall have the power to issue
8 orders of noncompliance as prescribed by section 12.

9 (19) The commissioner shall exercise all of the powers
10 conferred upon him by this act or any other provision of
11 state law in any jurisdiction or political subdivision of
12 the state.

13 (20) After receiving the final campaign contribution
14 and expenditure report filed as required by Title 23, R.C.M.
15 1947, the commissioner shall inform the secretary of state,
16 or the city or county clerk and recorder that each candidate
17 who has been properly elected to any public office has filed
18 his final contribution and expenditure report as specified
19 in section 3 of this act.

20 (21) The commissioner shall have the authority to
21 administer oaths and affirmations, subpoena witnesses,
22 compel their attendance, take evidence, and require the
23 production of any books, papers, correspondence, memoranda,
24 bank account statements of a political committee or
25 candidate, or other records which are relevant or material.

1 for the purpose of conducting any investigation pursuant to
2 the provisions of Title 23, R.C.M. 1947.

3 Section 12. Examination of statements and issuance of
4 orders of noncompliance. (1) Each statement filed with the
5 commissioner during an election or within sixty (60) days
6 thereafter shall be inspected within ten (10) days after the
7 date upon which the statement is filed. If a person has not
8 satisfied the provisions of Title 23, R.C.M. 1947, the
9 commissioner shall immediately notify a person of the
10 noncompliance. Such an order of noncompliance shall be
11 issued when:

12 (a) upon examination of the official ballot, it
13 appears that the person has failed to file a statement as
14 required by law or that a statement filed by a person does
15 not conform to law; or

16 (b) it is determined that a statement filed with the
17 commissioner does not conform to the requirements of Title
18 23, R.C.M. 1947, or that a person has failed to file a
19 statement required by law.

20 (2) If an order of noncompliance is issued during a
21 campaign period, or within sixty (60) days after an
22 election, a candidate or political committee shall submit
23 the necessary information five (5) days after receiving the
24 notice of noncompliance. Upon a failure to submit the
25 required information within the time specified, the

1 appropriate county attorney or the commissioner shall have
2 the authority to initiate a civil or criminal action
3 pursuant to the procedures outlined in section 13.

4 (3) If an order of noncompliance is issued during any
5 other period than that described in subsection (2), a
6 candidate or political committee shall submit the necessary
7 information within ten (10) days after receiving the notice
8 of noncompliance. Upon a failure to submit the required
9 information within the time specified, the appropriate
10 county attorney or the commissioner shall initiate a civil
11 or criminal action pursuant to the procedures outlined in
12 section 13.

13 (4) A candidate or political treasurer aggrieved by
14 the issuance of an order of noncompliance may seek judicial
15 review in the district court of the county in which the
16 candidate resides or the county in which the political
17 committee has its headquarters. All petitions for judicial
18 review filed pursuant to this act shall be expeditiously
19 reviewed by the appropriate district court.

20 (5) Within one hundred and twenty (120) days after the
21 date of each election, the commissioner shall examine and
22 compare each statement or report filed with the commissioner
23 pursuant to the provisions of Title 23, R.C.M. 1947, to
24 determine whether a statement or report conforms to the
25 provisions of the law. The examination shall include a

comparison of all reports and statements received by the commissioner pursuant to the requirements of Title 23, R.C.M. 1947. The commissioner may investigate the source and authenticity of any contribution or expenditure listed in any report or statement filed pursuant to Title 23, R.C.M. 1947, or the alleged failure to report any contribution or expenditure required to be reported pursuant to Title 23, R.C.M. 1947.

Section 13. Prosecutions and powers of the county attorney. (1) When the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution as specified in section 18, he shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within thirty (30) days after he receives notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

(2) A county attorney may at any time prior to the expiration of the thirty (30) day time period specified in subsection (1) waive his right to prosecute and thereby authorize the commissioner to initiate the appropriate civil or criminal action as specified in section 18.

(3) The provisions of subsection (1) do not apply to a

situation in which the alleged violation has been committed by the county attorney of a county. In this instance, the commissioner is authorized to directly prosecute any alleged violation of Title 23, R.C.M. 1947.

(4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution shall be paid by the state of Montana.

(5) Nothing in this act shall prevent a county attorney from inspecting any records, accounts, or books which must be kept pursuant to the provisions of Title 23, R.C.M. 1947, that are held by any political committee or candidate involved in an election to be held within the county. However, such inspections must be conducted during reasonable office hours.

(6) A county attorney shall have the authority to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of Title 23, R.C.M. 1947.

Section 14. Right to inspect current accounts and reports. Every individual shall have the right to inspect any report or current account that must be kept or filed

SB76

pursuant to the provisions of Title 23, R.C.M. 1947, but only if such inspection will occur during reasonable office hours and in such a manner that normal office functions will not be unnecessarily interrupted.

Section 15. Duties of county clerk and recorder.

(1) A county clerk and recorder shall maintain all records and statements filed pursuant to the provisions of Title 23, R.C.M. 1947, for a period of ten (10) years from the date of receipt.

(2) A county clerk and recorder shall accept and file any information voluntarily supplied that exceeds the requirements of Title 23, R.C.M. 1947.

(3) A county clerk and recorder shall file, code, and cross-index all reports and statements filed as prescribed by the commissioner.

(4) A county clerk and recorder shall make statements and other information filed with his office available for public inspection and copying during regular office hours, and make copying facilities available free of charge or at a charge not to exceed actual cost.

Section 16. Names not to be printed on ballot.

(1) The name of a candidate shall not be printed on the official ballot for a general or special election if the candidate or a political treasurer for a candidate fails to file any statement as required by Title 23, R.C.M. 1947.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) In carrying out the mandate of this section, the commissioner must by a written statement notify the secretary of state or the city or county clerk or the clerk of a school district, that a candidate, or a candidate's political treasurer, has not complied with the provisions of Title 23, R.C.M. 1947, as described in subsection (1) and that a candidate's name should not be printed on the official ballot.

Section 17. Certificates of election may be withheld. No certificate of election shall be granted to any candidate until his political treasurer has filed the reports and statements that must be filed pursuant to the provisions of Title 23, R.C.M. 1947. No candidate for an elective office may assume the powers and duties of that office until he has received a certificate of election as provided by law. A certificate of election shall only be issued by the public official responsible for issuing a certificate or commission after receiving written assurance from the commissioner that a candidate has filed all of the reports that must be filed pursuant to the provisions of Title 23, R.C.M. 1947.

Section 18. Penalties. (1) A person who falsely reports or deliberately fails to include any information

1 required by Title 23, R.C.M. 1947, or who falsely reports
2 or deliberately fails to report any contribution or
3 expenditure as required by Title 23, R.C.M. 1947, may be
4 guilty of false swearing, or unsworn falsification to
5 authorities as applicable and upon conviction shall be
6 punished as provided in sections 94-7-203 or 94-7-204 for
7 each separate violation.

8 (2) Any person who accepts a contribution prohibited
9 by Title 23, R.C.M. 1947, or makes a contribution in excess
10 of the amounts specified in Title 23, R.C.M. 1947, or in any
11 manner other than that provided in Title 23, R.C.M. 1947, is
12 guilty of a violation and upon conviction shall be fined not
13 to exceed one thousand dollars (\$1,000) or be imprisoned in
14 the county jail for a term not to exceed six (6) months, or
15 both, for each separate violation.

16 (3) Any person who violates any other provision of
17 Title 23, R.C.M. 1947, upon conviction, shall be fined not
18 to exceed one thousand dollars (\$1,000) or be imprisoned in
19 the county jail for a term not to exceed six (6) months, or
20 both, for each separate violation.

21 (4) If a court of competent jurisdiction finds that
22 the violation of any provision of Title 23, R.C.M. 1947, by
23 any candidate or political committee probably affected the
24 outcome of any election, the result of that election may be
25 held void and a special election held within sixty (60) days

1 of that finding, or where the violation occurred during a
2 primary election, the court may direct the appropriate
3 political party to select a new candidate according to the
4 provisions of state law and the custom of the party. Any
5 action to void an election shall be commenced within one (1)
6 year of the date of the election in question.

7 (5) Except as provided in subsection (4), any action
8 brought pursuant to the provisions of Title 23, R.C.M. 1947,
9 must be commenced within four (4) years after the date when
10 the violation occurred.

11 (6) In addition to all other penalties prescribed by
12 this act:

13 (a) Any candidate who is convicted of violating any
14 provision of Title 23, R.C.M. 1947, shall be ineligible to
15 be a candidate for any public office in the state of Montana
16 for a period of five (5) years from the date of conviction;

17 (b) Any campaign treasurer who is convicted of
18 violating any provision of Title 23, R.C.M. 1947, shall be
19 ineligible to be a candidate for any public office or to
20 hold the position of campaign treasurer in any campaign in
21 the state of Montana for a period of five (5) years from the
22 date of conviction.

23 (7) In any action brought pursuant to the provisions
24 of Title 23, R.C.M. 1947, the appropriate state district
25 court shall have the power to enjoin any person to prevent

the doing of any act herein prohibited, or to compel the performance of any act herein required.

(8) Nothing in this section shall prevent a county attorney or the commissioner from seeking a penalty otherwise specifically provided for in Title 23, R.C.M. 1947.

(9) All fines and forfeitures imposed pursuant to this section shall be deposited in the state general fund.

Section 19. Citizen's right to sue. Any person residing within a jurisdiction in which an election occurs may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Title 23, R.C.M. 1947. However, a court may not entertain a suit filed pursuant to this section unless the plaintiff has filed a complaint with the commissioner prior to seeking injunctive relief. The court may award to a plaintiff or a defendant who prevails his costs of litigation, including reasonable attorney's fees.

Section 20. Secretary of state must furnish copies of this act to appropriate officials. The secretary of state shall, at the expense of the state, furnish the county clerk, and the city and town clerks, copies of Title 23, chapter 47, R.C.M. 1947. The public official with whom a candidate files a declaration or certificate of nomination shall transmit a copy of Title 23, chapter 47, R.C.M. 1947,

to the candidate. Such copies shall also be furnished to any other person required to file a statement. Upon his own information, or at the written request of any voter, the secretary of state shall provide a copy of Title 23, chapter 47, R.C.M. 1947, to any other individual who may be a candidate, or who may otherwise be required to make a statement required by this act.

Section 21. Section 23-4701, R.C.M. 1947, is amended to read as follows:

"23-4701. Violation of election laws by certain officers a ~~felony~~ misdemeanor. Every person charged with the performance of any duty, under the provisions of any law of this state relating to elections, or the registration of the names of electors, or the canvassing of the returns of election, who willfully neglects or refuses to perform such duty, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, ~~is, unless a different punishment for such acts or omissions is prescribed by this code,~~ punishable by fine not exceeding one thousand dollars (\$1,000), or by imprisonment in ~~the state prison~~ a county jail not exceeding ~~five years~~ six (6) months, or both."

Section 22. Severability. It is the intent of the legislative assembly that if part of this act is invalid, all valid parts that are severable from the invalid part

1 remain in effect. If a part of this act is invalid in one
2 or more of its applications, the part remains in effect in
3 all valid applications that are severable from the invalid
4 applications.

5 Section 23. Effective date. This act shall become
6 effective on January 1, 1976, and the first reporting period
7 for any existing candidate or political committee shall
8 begin on the effective date of this act.

9 Section 24. Sections 23-4722, 23-4725, 23-4726,
10 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733 through
11 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, and
12 23-4775, R.C.M. 1947, are repealed.

-End-

State Administration

1975 Senate

Page 1

44th

LEGISLATIVE SESSION

COMMITTEE ON STATE ADMINISTRATION

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 8	1-6-75	1-13,17-75	1-17-75	1-17-75					
SB 15	1-6-75	1-10,13,17, 20-75	1-20-75			1-20-75			
SB 25	1-6-75	1-13,17-75	1-17-75			1-17-75			
25	re-referred 1-22-75	1-31-75	1-31-75			1-31-75			
SB 26	1-6-75	1-17,20-75	1-20-75	1-20-75					
SB 28	1-7-75	1-17-75	1-17-75		1-17-75				
SB 31	1-8-75	1-13,17,20-75	1-20-75	WITHOUT RECOMMENDATION					
SB 33	1-8-75	1-17,22-75	1-22-75	Transferred to Finance and Claims Committee					
SB 36	1-9-75	1-20,22-75	1-22-75	1-22-75					
SB 41	1-10-75	1-29-75 2-5-75	2-5-75			2-5-75			
SB 46	1-10-75	1-20,22-75	1-22-75			1-22-75			
SB 49	1-10-75	1-29,31-75	1-31-75	1-31-75					
SB 58	1-11-75	1-29-75 2-3-75	2-3-75			2-3-75			
SB 62	1-11-75	1-20-75	1-20-75			1-20-75			
SB 69	1-16-75	None	1-22-75	Transferred to Finance and Claims Committee					
SB 76	1-16-75	1-24-75 2-3,15,20-75	2-20-75			2-20-75			
SB 77	1-16-75	1-22-75	1-22-75	1-22-75					

and for committees. In addition, the League feels there is no justification for the \$6,000 figure for gubernatorial candidates and the \$4,000 figure for state office candidates. She pointed out that the federal laws put a limit of only \$1,000 on federal candidates. (See Exhibit A and Exhibit B)

Mr. Tom Winsor, Montana Chamber of Commerce, also stated that he is in favor of the overall concept of Senate Bill 78, but had reservations about the figures involved. He does feel, however, that the bill is a meaningful step toward campaign reform in Montana.

Ms. JoAnn Woodgerd, Secretary of State's office, did not testify on this bill, but was asked to quote some figures she had compiled regarding the expenditures in Montana during the last election campaign.

CONSIDERATION OF SENATE BILL NO. 76: An act revising political campaign reporting requirements; creating the position of Commissioner of Campaign Finances and Practices; authorizing the Commissioner, in conjunction with the County Attorneys, to enforce Montana's election laws and to regulate Montana's campaign finance laws as specified in Title 23, R.C.M. 1947; specifying the powers and duties of County Attorneys and other local officials; requiring candidates and political committees to designate a campaign treasurer and a campaign depository; authorizing the creation of a petty cash fund for all candidates and political committees; and authorizing citizens to bring actions to force compliance with this act.; providing criminal penalties.

Senator Greely, sponsor of the bill, explained to the committee that it contains all the definitions, and eliminates definitions currently in the Corrupt Practices Act. He stated that this is the key bill of the series, and attempts to get some handle on the election campaign reporting situation. The bill provides that the election enforcement officer will also have the ability to have some input in election laws in general.

Mr. Steve Brown, Governor's office, explained the different provisions of the bill and pointed out where they appeared in the bill.

Page 3 - Included in the definitions is the word "contribution." He explained that services provided without compensation or meals or lodging provided in private instances would be excluded from this.

Page 4 - The definition of "person" includes committees and other organizations, rather than just individuals.

Page 5 - Previously all candidates were subject to the same reporting requirements and that has raised a good deal of criticism. This bill provides for different requirements for different offices. Also that local candidates are not

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January 24, 1975

covered by these requirements unless they spend more than \$200.

Page 3 - Requires the full name and mailing address, and occupation of anyone contributing \$25 or more.

Section 6 through 9 - Imposes minimum basic requirements for organizing campaign staffs and political committees. It also authorizes use of petty cash funds.

Page 16, Section 10 - Creates a politically independent enforcer to deal with the problems expressed last year. The Commissioner of Campaign Finances and Practices would serve a single five-year term, and would be precluded from seeking a political position for five years after the term of his office. This position would be attached to the Secretary of State's office for administrative purposes only. The Commissioner would be authorized to investigate all violations and would have the backup authority to prosecute. He could be relieved from office by impeachment.

Page 23 - Provides for an issuance of notice of noncompliance so that the Commissioner could work with the candidates in advance to prevent need for prosecution.

Page 28 - Section 18 provides for Penalties. Also that a citizen has the right to sue if he first has notified the Commissioner that he believes a violation has occurred.

Mr. Ernest Post, Montana State AFL-CIO, stated that he supports Senate Bill 76.

Ms. Twila Voorhees, League of Women Voters, testified that the consensus of her League is very broad in the area of campaigns, but that they do support the idea of disclosures and enforcement. They also approve of reporting before an election rather than after it. However, they are concerned that persons on the local level are exempted from these disclosures if they spend less than \$200. She feels strongly that any time you set up a threshold of this type you are creating a loophole. She also feels that in the case of several campaign committees or groups, all deputy treasurers should be responsible to one individual so the public will know where to get information. According to Ms. Voorhees, the League supports the idea of a Commissioner with the proper investigative and prosecutorial powers, but they are reluctant to give first crack at the prosecution to the county attorney.

Ms. JoAnn Woodgerd, Secretary of State's office, testified in support of Senate Bill 76. She felt it is a well drafted bill that mechanically will work, and that it is a good compromise between the public's right to know without putting an undue burden on the candidates.

Mr. Michael Pichette, Montana Democratic Party, also appeared as a proponent of the bill. He stated that at the 1974 Democratic platform convention they asked for campaign reform, and mentioned specific items which they feel are covered by this bill. For instance the reporting provisions; controls for campaign treasurers; and the enforcement provisions. Mr. Pichette felt this bill would mean a greatly

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January 24, 1975

increased amount of work, but that it will help restore the public confidence in political candidates.

Mr. Tom Winsor, Montana Chamber of Commerce, appeared as an opponent to Senate Bill 76. He felt there is very little relationship between this bill and the realities of Montana politics today. Mr. Winsor feels this bill would create a super office that would have super powers over political candidates. He also felt the committee should have been able to consider all the election reform bills together instead of receiving them peacemeal. According to Mr. Winsor, Senate Bill 76 does not meet what he thinks is the need of Montana.

There were questions from the committee members, and a discussion of the two bills.

The meeting was adjourned at 9:30 a.m.



SENATOR MIKE GREELY, Chairman

POLL CALL

STATE ADMINISTRATION COMMITTEE

44th LEGISLATIVE SESSION - 1975

NAME	PRESENT	ABSENT	EXCU
<u>Senator Mike GREELY, Ch.</u>	X		
<u>Senator Terry MURPHY</u>	X		
<u>Senator John W. DEVINE</u>	X		
<u>Senator Greg JERGESON</u>	X		
<u>Senator Ann SEIBEL</u>	X		
<u>Senator Antoinette ROSELL</u>	X		
<u>Senator George F. ROSKIE</u>	X		
<u>Senator Peter STORY</u>	X		

DATE January 24, 1975

DATE January 24, 1975

COMMITTEE ON STATE ADMINISTRATION BILL NO. SB 76 & SB 78

COMMITTEE ON STATE ADMINISTRATION BILL NO. SB 76 & SB 78

VISITOR'S REGISTER

[illegible]

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February 15, 1975

2. Amend page 2, Section 5, line 21.

Following: "dollars"

Strike: "(\$1,000)"

Insert: "(\$100)"

3. Amend page 2, Section 5, line 21.

Following: "exceed"

Strike: "ten"

Insert: "one"

4. Amend page 2, Section 5, line 22.

Following: "dollars"

Strike: "(\$10,000)"

Insert: "(\$1,000)"

The motion carried unanimously. Senator Story then made a motion that Senate Bill 202 be amended as follows:

1. Amend page 2, Section 4, lines 13 and 14.

Following: "false"

Strike: "or highly misleading"

The motion carried unanimously. Senator Seibel then made a motion that Senate Bill 202 DO PASS AS AMENDED. Senator Rosell made a substitute motion that Senate Bill 202 DO NOT PASS on the basis that she feels it is unconstitutional. A tie vote resulted. Chairman Greely explained that Senate Bill 202 would then be reported out of committee, AS AMENDED, WITHOUT RECOMMENDATION.

SENATE BILL NOS. 76, 139, 396: Chairman Greely explained that he would like to consider all three of these campaign bills together. In an effort to get the committee's general feelings toward them, he asked that they discuss them in terms of the concept of each bill instead of making any particular motions on the bills themselves.

Senator Rosell made a motion that the committee consider an elected official, namely the Secretary of State, as the person to carry out the election law responsibilities. The motion resulted in a tie vote.

Senator Roskie made a motion that the committee consider the appointment of a Commissioner by the Secretary of State which would be subject to the approval of the Legislature. The motion failed.

LEAGUE OF WOMEN VOTERS OF MONTANA
Testimony on SB76 (Revising Montana Election Laws)

The Montana League of Women Voters generally supports SB76.

Our position on campaign reform was announced in January, 1974, following a nation-wide study by the League of Women Voters of the United States. Our feelings of concern and disgust over well-publicized abuses admittedly served as an impetus for our study but it is our belief that campaign reform on all levels has long been overdue. Our consensus contains positions in the areas of disclosure, limitations, enforcement, base of funding, use of broadcast media and length of campaigns. We are generally satisfied with SB76 but would ask you to consider the following suggestions:

DISCLOSURE

LWV position is to require full and timely disclosure of all campaign contributions.

SB76 excludes from reporting requirements local level candidates expending less than \$200. This probably would be reasonable most of the time but what of those occasional instances when a candidate spends \$195, all of which was funded by a contributor whose name shall never be made public? Setting thresholds always creates loopholes and this concerns us.

We also believe that one central committee should co-ordinate control, and report all financial transactions and sincerely hope that deputy treasurers in SB76 are sufficiently responsible to one central committee.

ENFORCEMENT

LWV positions is to establish an independent body to monitor and enforce campaign finance laws.

We generally applaud the creation of the Commissioner of Campaign Finances and Practices, and believe that he/she has been given sufficient investigative and prosecutorial powers. We are somewhat concerned that allowing county attorneys original prosecutorial powers detracts from the independent nature of the prosecution and would prefer to see the Commissioner initiate court action.

ON THE WHOLE WE URGE YOU TO SUPPORT SB 76 AND THANK YOU FOR CONSIDERATION OF OUR RECOMMENDATIONS.

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

February 20, 1975

The twenty-first meeting of the Senate State Administration Committee was called to order by Chairman Mike Greely at 8:05 a.m. on Thursday, February 20, 1975 in Room 410 of the State Capitol Building.

ROLL CALL: All members were present, with the exception of Senator Devine, who was excused.

DISPOSITION OF BILLS:

SENATE BILL NO. 76: Senator Greely made a motion that the committee adopt the amendments attached (see exhibit A) to Senate Bill 76. The motion carried unanimously.

Senator Story made a motion that Senate Bill 76 be further amended as follows:

1. Amend page 6, Section 3, line 22.
Following: "exceed"
Strike: "two"
Insert: "five"
2. Amend page 6, Section 3, line 22.
Following: "dollars"
Strike: "(\$200)"
Insert: "(\$500)"

The motion carried. Senator Story then made a motion that Senate Bill 76 be further amended as follows:

1. Amend page 31, Section 19, line 14.
Following: "section"
Strike: "unless"
Insert: "until"
2. Amend page 31, Section 19, line 16.
Following: "relief"
Insert: "and the commissioner has had time to investigate the alleged violation and indicate his findings"

After some discussion, Senator Roskie made a substitute motion that Senate Bill 76 be amended as follows:

1. Amend title, page 1, lines 14 through 15.
Following: "COMMITTEES;"
Strike: "AUTHORIZING CITIZENS TO BRING ACTIONS TO FORCE COMPLIANCE WITH THIS ACT;"
2. Amend page 31, Section 19, lines 9 through 18.
Following: line 8
Strike: Section 19 in its entirety
Renumber: All subsequent sections.

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February 20, 1975

Senator Story therefore withdrew his motion to amend Section 19, and Senator Greely withdrew his motion to amend Section 19 (see amendment no. 4 on exhibit A attached). A vote was taken on Senator Roskie's motion to strike Section 19 in its entirety. The motion carried unanimously.

Senator Rosell made a motion that Senate Bill 76 be further amended as follows:

1. Amend page 28, Section 18, lines 24 and 25.
Following: "who"
Strike: "falsely reports"
Insert: "knowingly submits a false report"
2. Amend page 29, Section 18, line 1.
Following: "who"
Strike: "falsely reports"
Insert: "knowingly submits a false report"

The motion carried unanimously. Senator Murphy then made
~~a motion that Senate Bill 76 DO PASS AS AMENDED. Motion carried.~~

SENATE BILL NO. 396: Senator Rosell made a motion that the amendments (see exhibit B attached) to Senate Bill 396 be adopted. Motion carried unanimously.

Senator Rosell made a motion that Senate Bill 396 be amended as follows:

1. Amend page 2, Section 1, lines 10 through 12.
Following: line 9
Strike: Subsection (5) in its entirety.
Renumber: Subsequent subsection.
2. Amend page 3, Section 1, lines 4 through 8.
Following: "facts."

ROLL CALL

STATE ADMINISTRATION COMMITTEE

44th LEGISLATIVE SESSION - 1975

Date 2-20-75

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Mike GREELY, Ch.</u>	X		
<u>Senator Terry MURPHY</u>	X		
<u>Senator John W. DEVINE</u>			X
<u>Senator Greg JERGESON</u>	X		
<u>Senator Ann SEIBEL</u>	X		
<u>Senator Antoinette ROSELL</u>	X		
<u>Senator George F. ROSKIE</u>	X		
<u>Senator Peter STORY</u>	X		

Exhibit A

Amendments to:
SENATE BILL NO. 76

Proposed by:
Senator Mike Greely

1. Amend page 8, Section 4, line 1.
Following: "disclose"
Insert: "the following information, except that a candidate shall only be required to report the information specified in this section if the transactions involved were undertaken for the purpose of influencing an election"
2. Amend page 10, Section 4, line 19.
Following: "candidates"
Insert: "or issues"
3. Amend page 17, Section 10, line 14.
Following: "subsection"
Strike: "(3)"
Insert: "(1)"
4. Amend page 31, Section 19, line 16.
Following: "relief."
Insert: "Furthermore, if the court holds a hearing or other proceeding to consider the request for injunctive relief, the commissioner shall be required to be a party to that proceeding and report his findings to the court."
5. Amend page 33, Section 23, line 6.
Following: "effective"
Strike: "on January 1, 1976, and"
Insert: "upon passage and approval, except that"
6. Amend page 33, Section 23, line 7.
Following: "any"
Strike: "existing"
7. Amend page 33, Section 23, line 8.
Following: "on"
Strike: "the effective date of this act"
Insert: "January 1, 1976"

PROPOSED AMENDMENTS TO SENATE BILL 76

Sponsored by Senator Mike Greely

Senate Bill 76 is amended to read as follows:

On page 8, line 1, after the word "disclose" and before the punctuation ":", insert "THE FOLLOWING INFORMATION, EXCEPT THAT A CANDIDATE SHALL ONLY BE REQUIRED TO REPORT THE INFORMATION SPECIFIED IN THIS SECTION IF THE TRANSACTIONS INVOLVED WERE UNDERTAKEN FOR THE PURPOSE OF INFLUENCING AN ELECTION"; and

On page 10, line 19, after the word "candidates" and before the punctuation ".", insert "OR ISSUES"; and

On page 17, line 14, after the word "subsection", delete the number and punctuation "(3)" and insert "(1)".

PROPOSED AMENDMENT TO SENATE BILL 76

Senate Bill 76 is amended to read as follows:

On page 31, line 16, after the word and punctuation "relief."
insert the following:

"FURTHERMORE, IF THE COURT HOLDS A HEARING OR OTHER PROCEEDING TO
CONSIDER THE REQUEST FOR INJUNCTIVE RELIEF, THE COMMISSIONER SHALL BE
REQUIRED TO BE A PARTY TO THAT PROCEEDING AND REPORT HIS FINDINGS TO THE
COURT."

STANDING COMMITTEE REPORT

February 20, 19 75

MR. PRESIDENT:

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE Bill No. 76

Respectfully report as follows: That SENATE Bill No. 76,
introduced bill, be amended as follows:

1. Amend title, page 1, lines 14 through 15.
Following: "COMMITTEES;"
Strike: "AUTHORIZING CITIZENS TO BRING ACTIONS TO FORCE COMPLIANCE
WITH THIS ACT;"
2. Amend page 6, Section 3, line 22.
Following: "exceed"
Strike: "two"
Insert: "five"
3. Amend page 6, Section 3, line 22.
Following: "dollars"
Strike: "(\$200)"
Insert: "(\$500)"
4. Amend page 8, Section 4, line 1.
Following: "disclose"
Insert: "the following information, except that a candidate
shall only be required to report the information specified
in this section if the transactions involved were under-
taken for the purpose of influencing an election"

(Continued)

Amendments to: SENATE BILL NO. 75
By: Senate State Administration Committee
February 20, 1975
Page 2

5. Amend page 10, Section 4, line 13.
Following: "candidates"
Insert: "or issues"
6. Amend page 17, Section 10, line 14.
Following: "subsection"
Strike: "(3)"
Insert: "(1)"
7. Amend page 28, Section 18, lines 24 and 25.
Following: "who"
Strike: "falsely reports"
Insert: "knowingly submits a false report"
8. Amend page 29, Section 18, line 1.
Following: "who"
Strike: "falsely reports"
Insert: "knowingly submits a false report"
9. Amend page 31, Section 19, lines 9 through 18.
Following: line 8
Strike: Section 19 in its entirety.
Renumber: All subsequent sections.
10. Amend page 33, Section 23, line 6.
Following: "effective"
Strike: "on January 1, 1976, and"
Insert: "upon passage and approval, except that"
11. Amend page 33, Section 23, line 7.
Following: "any"
Strike: "existing"
12. Amend page 33, Section 23, line 8.
Following: "on"
Strike: "the effective date of this act"
Insert: "January 1, 1976"

AND AS SO AMENDED, DO PASS

Date 2-20-75 Senate Bill No. 76 Time 9:00 a.m.

NAME	YES	NO
GREELY, Mike - Chairman	X	
MURPHY, Terry - Vice Chairman	X	
DEVINE, John W.	<i>absent</i>	
JERGESON, Greg	X	
SEIBEL, Ann	X	
ROSELL, Antoinette Fraser		X
ROSKIE, George F.		X
STORY, Peter	X	

Wendy Ann Foster
Secretary

Mike Greely
Chairman

Motion: That Senate Bill 76 DO PASS AS AMENDED

Date 2-26-75 Senate Bill No. 76 Time 8:15 p.m.

NAME	YES	NO
GREELY, Mike - Chairman	X	
MURPHY, Terry - Vice Chairman	X	
DEVINE, John W.	<i>absent</i>	
JERGESON, Greg	X	
SEIBEL, Ann	X	
ROSELL, Antoinette Fraser	X	
ROSKIE, George F.	X	
STORY, Peter	X	

Mary Anne Fisher
Secretary

Mike Greely
Chairman

Motion: By Greely that Senate Bill 76 be amended as follows:

(see attached)

(include enough information on motion--put with yellow copy of committee report.)

Date 2-20-75 Senate Bill No. 76 Time 8:20 a.m.

NAME	YES	NO
GREELY, Mike - Chairman	X	
MURPHY, Terry - Vice Chairman	X	
DEVINE, John W.	<i>absent</i>	
JERGESON, Greg		X
SEIBEL, Ann	X	
ROSELL, Antoinette Fraser	X	
ROSKIE, George F.	X	
STORY, Peter	X	

Mary Anne Fisher
Secretary

Mike Greely
Chairman

Motion: By Senator Story that Senate Bill 76 be amended as follows:

1. Amend page 6, Section 3, line 22.

Following: "exceed"

Strike: "two"

Insert: "five"

2. Amend page 6, Section 3, line 22.

Following: "dollars"

Strike: "(\$200)" and Insert: "(\$500)"

(include enough information on motion--put with yellow copy of committee report.)

Date 2-20-75 Senate Bill No. 76 Time 8:30 a.m.

NAME	YES	NO
GREELY, Mike - Chairman	X	
MURPHY, Terry - Vice Chairman	X	
DEVINE, John W.	<i>absent</i>	
JERGESON, Greg	X	
SEIBEL, Ann	X	
ROSELL, Antoinette Fraser	X	
ROSKIE, George F.	X	
STORY, Peter	X	

Mary Anne Fisher
Secretary

Mike Greely
Chairman

Motion: Substitute motion by Roskie that Senate Bill 76 be amended as follows:

1. Amend title, page 1, lines 14 through 15.

Following: "COMMITTEES;"

Strike: "AUTHORIZING CITIZENS TO BRING ACTIONS TO FORCE COMPLIANCE WITH THIS ACT;"

2. Amend page 31, Section 19, lines 9 through 18.

Following: line 8

(include enough information on motion--put with yellow copy of committee report.)

Strike: Section 19 in its entirety.

Renumber: All subsequent sections.

Date 7-20-75 Senate Bill No. 76 Time 8:45 am

NAME	YES	NO
GREELY, Mike - Chairman	X	
MURPHY, Terry - Vice Chairman	X	
DEVINE, John W.	excused	
JERGZSON, Greg	X	
SEIBEL, Ann	X	
ROSELL, Antoinette Fraser	X	!
ROSKIE, George F.	X	!
STORY, Peter	X	!
		!

Mary Anne Fisher
Secretary

Mike Greely
Chairman

Motion: By Rosell that Senate Bill 76 be amended as follows:

1. Amend page 28, Section 18, lines 24 and 25.

Following: "who"

Strike: "falsely reports"

Insert: "knowingly submits a false report"

2. Amend page 29, Section 18, line 1.

Following: "who"

Strike: "falsely reports"

(include enough information on motion--put with yellow copy of committee report.)

Insert: "knowingly submits a false report"

Amendments to:
SENATE BILL NO. 76

Proposed by:
Senator Mike Greely

1. Amend page 8, Section 4, line 1.
Following: "disclose"
Insert: "the following information, except that a candidate shall only be required to report the information specified in this section if the transactions involved were undertaken for the purpose of influencing an election"
2. Amend page 10, Section 4, line 19.
Following: "candidates"
Insert: "or issues"
3. Amend page 17, Section 10, line 14.
Following: "subsection"
Strike: "(3)"
Insert: "(1)"
4. Amend page 31, Section 19, line 16.
Following: "relief."
Insert: "Furthermore, if the court holds a hearing or other proceeding to consider the request for injunctive relief, the commissioner shall be required to be a party to that proceeding and report his findings to the court."
5. Amend page 33, Section 23, line 6.
Following: "effective"
Strike: "on January 1, 1976, and"
Insert: "upon passage and approval, except that"
6. Amend page 33, Section 23, line 7.
Following: "any"
Strike: "existing"
7. Amend page 33, Section 23, line 8.
Following: "on"
Strike: "the effective date of this act"
Insert: "January 1, 1976"

1975
house

JUDICIARY

COMMITTEE

44th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 53	Raising age to 19 or older for the purpose of purchasing, consuming or using alcoholic beverages.	2/25/75	Kolstad		3/5/75 transferred to another committee	3/5/75
SB 202	Providing for republication notice to a candidate criticized in a preelection advertisement & medium carrying the advertisement & providing penalties.	2/25/75	Towe	3/5/75	AS SO AMENDED BE CONCURRED IN	3/14/75
SB 218	To submit to qualified electors of Mt. an amendment to Art. V, Section 2 of Mt. Const. to reduce size of senate to 25 and House to 50 members.	2/25/75	Roberts	3/8/75	BE NOT CONCURRED IN	3/10/75
SB 283	To revise the provisions of Mt. sexual crimes statutes pertaining to sexual intercourse without consent.	2/26/75 3/17/75	Seibel	3/6/75	BE CONCURRED IN BE CONCURRED IN	3/6/75 3/17/75
SB 76	An act revising political campaign reporting requirements, etc.	2/26/75	Greely	3/5/75	BE CONCURRED IN AS SO AMENDED BE CONCURRED IN	3/14/75 3/12/75
SB 148	To generally revise and repeal statutes on wills, succession, probate, and guardianship to conform Mt. law to uniform probate code.	2/26/75	Roberts	3/11/75	BE CONCURRED IN	3/12/75

3-5-75

Hearing closed.

SENATE BILL NO. 76 Senator Mike Greely, District #20, is chief sponsor of the act revising political campaign reporting requirements and creating the position of commissioner of campaign finances and practices. He provided each committee member with a summary of the bill. (see exhibit) He stated this bill attempts to co-ordinate and bring everything into one compact package in relation to the corrupt practices act.

Proponent Ernie Post, representing the AFL-CIO, stated they support this bill which is a compromise from the ad hoc committee. It was a majority report.

Proponent Margaret Davis, representing the League of Women Voters, stated they generally support this bill, they feel campaign reform is long overdue. (see prepared statement)

Proponent Mike Pichette, representing the Democratic party, stated there should be some discussion to decide how large a campaign figure should be in the bill. The reporting requirements are important things in this bill, are modeled after the federal law.

Proponent Joan Woodgerd, representing the Secretary of State's office, stated she served on the interim committee, and feels this is a good bill; it strikes a good balance between the public's right to know.

No opponents.

Senator Greely, in closing, stated the office of campaign commissioner for purpose of Executive Reorganization was placed under the Secretary of State's office but he will hire his own staff, file his own reports. This is a vehicle to improve the entire election structure in Montana and also enforce the corrupt practices act.

Following question by Representative Moore regarding appropriations to which he was advised there were some requested, the hearing was closed.

SENATE BILL NO. 143 Senator Richard Colberg, District #50, is chief sponsor of this act to provide for prompt judicial

by

Senator Mike Greely

Section 1. Statement of Purpose.

Section 2. Definitions. The current Corrupt Practices Act contains two definition sections. This section of the bill combines and clarifies the current definitions and also includes some definitions that have not been previously included in the law.

Section 3. Reporting requirements. This section specifies the information that must be contained in reports filed under the provisions of this act. This section distinguishes between classes of candidates and requires more stringent reporting requirements for candidates for statewide office. Legislative candidates, for example, would only have to file one report before each election and within 20 days after the date of each election. Candidates for county and city offices are not covered by the provisions of this act unless they expend more than \$500 in an election.

Section 4. What reports must disclose. This section of the act specifies what types of campaign-related transactions must be reported. For example, the full name and mailing address of people making contributions in excess of \$25 must be reported. For sums under that amount, however, only the amount of money being contributed need be reported. This section also specifies how expenditures are to be reported.

Section 5. Reports must be certified as true and correct by the person filing the report.

Section 6. Campaign treasurer and campaign depository. This section requires a candidate or a political committee to appoint a campaign treasurer to handle the campaign transactions for a candidate or a committee. A candidate may designate himself as a campaign treasurer. This section also requires that a campaign depository be designated. This section will facilitate enforcement of the act and enable candidates and political committees to do a better job of reporting contributions and expenditures.

Section 7. Deposit of contributions and filing of a statement by the campaign treasurer. This section specifies how the campaign treasurer is to report contributions and also makes it clear that the campaign treasurer is to be responsible for the deposit of contributions received by a candidate or committee.

Section 8. Treasurer to keep records and right to inspect records. This section of the bill specifies that the campaign treasurer for a candidate or a political committee must keep the records up to date and must make those records available for public inspection and inspection by the opposing candidate or political committee. This latter requirement is simply a recodification of an existing provision of the Corrupt Practices Act.

Section 9. Petty cash funds allowed. This section permits each candidate and political committee to maintain a petty cash fund for use in paying the daily expenses that are incurred in running a campaign.

Section 10. Selection of a commissioner of campaign finances and practices. The commissioner would be selected by a majority of a four-member selection committee comprised of the Speaker of the House, the President of the Senate, and Minority

-4-

Floor Leaders of both houses of the Montana Legislature. If these four people cannot agree on the selection of a commissioner, the Montana Supreme Court is then authorized to appoint a fifth public member to the selection committee. The majority of the five members of the selection committee shall then select the commissioner.

The commissioner would be permitted to serve one five-year term under the provisions of this act. Furthermore, the commissioner would be precluded from becoming a candidate for public office for a period of five years from the time the commissioner's term expires.

The commissioner may be removed from office by impeachment under the provisions of this act and may also be prosecuted for official misconduct.

Section 11. Powers and duties of the commissioner. The commissioner would have the primary responsibility to investigate all alleged violations of the election laws of Montana. In addition, the commissioner, along with the county attorneys, would be responsible for enforcing the provisions of this act.

This section also specifies that the commissioner has a responsibility to assist the candidates for public office in the State of Montana. For example, he would be responsible for designing standard forms for use by candidates in reporting contributions and expenditures.

Section 12. Examination of statements and issuance of orders of non-compliance. The commissioner would have the authority to issue orders of non-compliance to candidates under the provisions of this section. This will enable the commissioner to notify candidates that they are not complying with the provisions of the law before an alleged violation becomes so serious that a criminal prosecution may be necessary.

Section 13. Prosecutions and powers of the county attorney. Once the commissioner has investigated an alleged violation of the law, the information is to be turned over to the appropriate county attorney. The county attorney then has thirty days to decide whether a prosecution will be undertaken. If no prosecution is undertaken at the end of that period, then the commissioner has the authority to undertake a prosecution. This section goes on to specify that if the prosecution is undertaken by the commissioner, all court costs associated with the prosecution are to be paid by the State of Montana.

Section 14. This section guarantees every individual the right to inspect a report or a current account that must be kept or filed under the act. However, the right to inspect can only be exercised during reasonable office hours.

Section 15. This section specifies the powers and duties of county clerks and recorders.

Section 16. This section would prohibit the printing of a candidate's name on the official ballot for a general or special election if a candidate or a political treasurer for a candidate has failed to file a statement as required by this act.

Section 17. This section specifies that certificates of election are to be withheld from those candidates who fail to file reports as required by this act.

Section 18. This section specifies the penalties that may be imposed against candidates or treasurers of political committees who fail to comply with the provisions of the act. The basic penalty is a \$1,000 fine or six months in jail, or both, for each separate offense. However, subsection (4) of this section specifies that if

a district court finds that a violation of the act probably affected the outcome of an election, the result of the election may be held void and a new election called.

Section 19. This section requires the Secretary of State, at the expense of the State of Montana, to furnish local officials and candidates with copies of the act.

Section 20. This section amends an existing provision of state law to provide that a public official who fails to carry out a responsibility as provided in the election laws shall be guilty of a misdemeanor and not a felony.

Section 21. This is the severability provision which is contained in virtually every piece of legislation enacted by the Montana Legislature.

Section 22. This section specifies that the act is effective upon passage and approval, except that the first reporting period for a candidate or political committee does not begin until January 1, 1976.

Section 23. This section repeals a number of outdated and antiquated provisions of the existing Corrupt Practices Act.

Would You Make *Marijuana* More Easily Available For These Kids?

**THESE LEGISLATORS
VOTED TO DO
JUST THAT!**

WILLIAM R. BAETH
MAX BAUCUS
BARBARA BENNETTS
DOROTHY BRADLEY
RICHARD COLBERG
WALLACE EDLAND
LARRY FASBENDER
JAMES FLEMING
MIKE GREELY
JACK GUNDERSON
HAL HARPER
ROBERT HARPER
WILLIAM HODGES
POLLY HOLMES
GARY KIMBLE
HERB HUENNEKENS
WALTER LAAS
WILLIAM NORMAN
JOE ROBERTS
ARTHUR SHELDEN
GAIL STOLTZ
THOMAS TOWE
GEORGE TURMAN
ROBERT WATT



During the 1973 Montana Legislature, four liberal legislators (George Turman, Mike Greely, Gary Marbut, and Barbara Bennetts) introduced House Bill 451, which eliminated the penalty for possession of small amounts of marijuana. The bill, which also erased marijuana from the list of "Dangerous Drugs", was reported out of Judiciary Committee with a "DO NOT PASS" recommendation. The majority of the good legislators agreed, and turned thumbs down. But, 24 representatives voted to reject the "DO NOT PASS" recommendation...those 24 legislators are listed in this advertisement. Fortunately, the more level heads prevailed and the bill was killed. BUT, had the views of these 24 legislators prevailed, and the bill had passed, it would have all but legalized the use of marijuana in the State of Montana.

(Page 434, House Journal 1973, see errata sheet, House Journal 1973)

How Would You Have Voted?

Paid for by the Legislative Campaign Committee, Box 116, Clancy, Mt., Elmer Schye, chmn.

Would You Promote *Gun Control* And The Confiscation Of Firearms?

THE LEGISLATORS
VOTED TO DO
JUST THAT!

FRANCIS BARDANOUVE
LARRY FASBENDER
JAMES FLEMING
MIKE GREELY
JACK GUNDERSON
JOHN HALL
HAL HARPER
POLLY HOLMES
GARY MARBUT
GORHAM SWANBERG
THOMAS TOWE
GEORGE TURMAN
ROBERT WATT

(HAROLD GERKE and ANN REGAN also voted
against HJR 44 on second reading; recorded
roll call vote, January 23, 1974)



In January 1974, House Joint Resolution 44, declaring the Montana Legislature's "UNALTERABLE OPPOSITION" to registration and confiscation of firearms, passed the Montana House of Representatives 80-13. The legislators listed in this advertisement were the 13 individuals who decided to vote AGAINST the resolution.

How Would YOU Have Voted?

The Legislative Campaign Committee believes it is important that a candidate's position on vital issues is known.

Sun. Nov 2, "Independent Record"
1974

DRUGS

H.B. 451: Barbera Bennetts was one of the original four sponsors of this bill to eliminate the penalty for possession of under 60 grams of MARIJUANA and to remove it from the list of "Dangerous Drugs" ---was killed in the House....P. 434 House Journal, 1973 and Erata sheet.

PORNOGRAPHY.

H.P. 320: She voted against this bill which prohibits the public display of offensive sexual material by keeping books and magazines with revealing covers from display on shelves easily viewed by the general public, especially minors and prohibits the showing of offensive previews during family or youth oriented movies. Passed both House and Senate overwhelmingly. Page 653, House Journal 1973

RIGHT TO KNOW

S.B. 555: She voted against this bill which called for public inspection of all records within the Workman's Compensation Division. Was overwhelmingly passed in the Senate but killed in the House. Roll Call Vote, March 7, 1974.

Paul Political Advertisement, Legislative Campaign Committee, Box 116, Clancy, Montana, Elmer Schye, Chairman

NAME Jo Ann Woodgerd

Bill No. SB76

ADDRESS _____

Date _____

WHOM DO YOU REPRESENT? Secretary of State

SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Margaret S Davis Bill No. SB 76
ADDRESS 917 Harrison, Helena Date 5 Mar 75
WHOM DO YOU REPRESENT? League of Women Voters of Montana
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Reforms of campaign financing laws are long overdue. The League of Women Voters generally supports SB 76; however, we support full and timely disclosure of all campaign contributions, including those for local candidates. The League also supports the position that one central committee should co-ordinate & report all financial transactions. Are deputy treasurers sufficiently responsible to the central committee?

NAME Mike Pichette Bill No. S. 202
ADDRESS Box 802 Helena Date 3/5/75
WHOM DO YOU REPRESENT? Democratic Party
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Steve Brown Bill No. S.B. 76
ADDRESS 1038 Monroe Date 3/5/75
WHOM DO YOU REPRESENT? Governor's Office
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Representative Lester moved AS SO AMENDED BE
CONCURRED IN. Motion carried unanimously.

SENATE BILL NO. 76 Senator Mike Greely is chief sponsor of this act revising political campaign reporting requirements. Chairman Huennekens stated there had been some discussion during hearing of filing of report if spend over \$500, this is on page 6. Steve Brown replied that this applies to local candidates, if they spend more than \$500 they would have to file a report with the Secretary of State's office. In reply to question by Chairman Huennekens, Steve Brown replied that he was chairman of the commission that produced most of the material.

Representative Day questioned where reports would be filed to which Steve Brown replied that page 4, line 20 explains where reports will be filed. You only file locally in the county in which you reside. Not filing in county in which they reside applies only to county attorneys. Representative Day questioned if this would apply to carpet baggers to which Steve Brown replied no.

Representative Baeth questioned if the candidate has no opposition in his district (page 1, line 13) does he have to have a treasurer to which Steve Brown replied no, he can name himself treasurer. Joan Woodgerd stated that if you are going to spend over the limit of expenditures you have to have a treasurer. She thinks this is a good provision.

Representative Rasmussen questioned the reason for the salary of the commissioner and how he would be appointed as well as his duties in off years. (This material was covered in hearing on the bill).

Representative Lory questioned the right to inspect account under Section 14 on page 27. Joan Woodgerd stated this is provided in law now but under mandamus. The stipulation now is that it must be during reasonable office hours.

Representative Halvorson moved to amend on page 18, line 2 by striking "the same salary as a state district court judge and shall receive the same salary increases awarded such judges" and insert: "an annual salary of eighteen thousand five hundred dollars (\$18,500) and the salary commission may recommend salary increases to the legislature". She stated she feels the salary is out of line for the job. Following discussion the motion to amend carried.

Representative Baeth moved AS SO AMENDED BE
CONCURRED IN. Motion carried with Representative Seifert voting no.

SENATE BILL NO. 4 Senator Antoinette Rosell is chief sponsor of this act to change the laws relating to husbands

AS SO AMENDED
BE CONCURRED IN

March 12,

19 75

SPEAKER:

We, your committee on

JUDICIARY

ing had under consideration

SENATE

Bill No. 76

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLITICAL CAMPAIGN REPORTING REQUIREMENTS; CREATING THE POSITION OF COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES; AUTHORIZING THE COMMISSIONER, IN CONJUNCTION WITH THE COUNTY ATTORNEYS, TO ENFORCE MONTANA'S ELECTION LAWS AND TO REGULATE MONTANA'S CAMPAIGN FINANCE LAWS AS SPECIFIED IN TITLE 23, R.C.M. 1947; SPECIFYING THE POWERS AND DUTIES OF COUNTY ATTORNEYS AND OTHER LOCAL OFFICIALS; REQUIRING CANDIDATES AND POLITICAL COMMITTEES TO DESIGNATE A CAMPAIGN TREASURER AND A CAMPAIGN DEPOSITOR; AUTHORIZING THE CREATION OF A PETTY CASH FUND FOR ALL CANDIDATES AND POLITICAL COMMITTEES; ~~AUTHORIZING CITIZENS TO BRING ACTIONS TO FORCE COMPLIANCE WITH THIS ACT;~~ PROVIDING CIVIL AND CRIMINAL PENALTIES; AMENDING SECTION 23-4701; REPEALING SECTIONS 23-4722, 23-4725, 23-4726, 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733, 23-4734, 23-4735, 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, AND 23-4775; AND PROVIDING FOR AN EFFECTIVE DATE."

pectfully report as follows: That

SENATE

Bill No. 76

Be amended in the third reading bill as follows:

1. Amend page 18, section 10, subsection (5), lines 2 through 4.
Following: "receive"
Strike: "the same salary as a state district court judge and shall receive the same salary increases awarded such judges"
Insert: "an annual salary of eighteen thousand five hundred dollars (\$18,500) and the salary commission may recommend salary increases to the legislature"

AS SO AMENDED
BE CONCURRED IN

XXXX

1 *Senate* BILL NO. *76*
2 INTRODUCED BY *Deely (By request of the Governor) Watt, Romney*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING POLITICAL
5 CAMPAIGN REPORTING REQUIREMENTS; CREATING THE POSITION OF
6 COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES; AUTHORIZING
7 THE COMMISSIONER, IN CONJUNCTION WITH THE COUNTY ATTORNEYS,
8 TO ENFORCE MONTANA'S ELECTION LAWS AND TO REGULATE MONTANA'S
9 CAMPAIGN FINANCE LAWS AS SPECIFIED IN TITLE 23, R.C.M. 1947;
10 SPECIFYING THE POWERS AND DUTIES OF COUNTY ATTORNEYS AND
11 OTHER LOCAL OFFICIALS; REQUIRING CANDIDATES AND POLITICAL
12 COMMITTEES TO DESIGNATE A CAMPAIGN TREASURER AND A CAMPAIGN
13 DEPOSITORY; AUTHORIZING THE CREATION OF A PETTY CASH FUND
14 FOR ALL CANDIDATES AND POLITICAL COMMITTEES; AUTHORIZING
15 CITIZENS TO BRING ACTIONS TO FORCE COMPLIANCE WITH THIS ACT;
16 PROVIDING CIVIL AND CRIMINAL PENALTIES; AMENDING SECTION
17 23-4701; REPEALING SECTIONS 23-4722, 23-4725, 23-4726,
18 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733, 23-4734,
19 23-4735, 23-4736, 23-4750, 23-4755, 23-4761, 23-4769,
20 23-4772, AND 23-4775; AND PROVIDING FOR AN EFFECTIVE DATE."
21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
23 Section 1. Statement of purpose. It is the purpose of
24 this act to establish clear and consistent requirements for
25 the full disclosure and reporting of the sources and

1 disposition of funds used in Montana to support or oppose
2 candidates, political committees, or issues, and to
3 consolidate and clarify the authority to enforce the
4 election and campaign finance laws as specified in Title 23,
5 R.C.M. 1947.

6 Section 2. Definitions. As used in Title 23, chapter
7 47, R.C.M. 1947: (1) "Candidate" means an individual who
8 has filed a declaration of nomination, certificate of
9 nomination, or acceptance of nomination for public office as
10 required by law, but does not include a candidate for
11 national office who is subject to the provisions of federal
12 election campaign laws.

13 (2) "Commissioner" means the commissioner of campaign
14 finances and practices as described in section 10 of this
15 act.

16 (3) "Election" means a general, special, or primary
17 election held to choose a public officer or submit an issue
18 for the approval or rejection of the people.

19 (4) "Issue" or "ballot issue" means a proposal
20 submitted to the people at an election for their approval or
21 rejection including, but not limited to, initiatives,
22 referenda, proposed constitutional amendments, recall
23 questions, school levy questions, bond issue questions, or a
24 ballot question.

25 (5) "Public office" means a state, county, municipal,

1 school, or other district office that is filled by the
2 people at an election.

3 (6) "Contribution" means:

4 (a) an advance, gift, loan, conveyance, deposit,
5 payment, or distribution of money or anything of value to
6 influence an election;

7 (b) a transfer of funds between political committees;

8 (c) the payment by a person other than a candidate or
9 political committee of compensation for the personal
10 services of another person that are rendered to a candidate
11 or political committee; but

12 (d) "contribution" does not mean services provided
13 without compensation by individuals volunteering a portion
14 or all of their time on behalf of a candidate or political
15 committee, nor meals and lodging provided by individuals in
16 their private residence for a candidate or other individual.

17 (7) "Expenditure" means a purchase, payment,
18 distribution, loan, advance, promise, pledge, or gift of
19 money or anything of value made for the purpose of
20 influencing the results of an election, but "expenditure"
21 does not mean:

22 (a) services, food, or lodging provided in a manner
23 that they are not contributions under this act; nor

24 (b) payments by a candidate for his personal travel
25 expenses or for food, clothing, lodging, or personal

1 necessities for himself and his family.

2 (8) "Anything of value" means any goods that have a
3 certain utility to the recipient that is real and that
4 ordinarily is not given away free, but is purchased.

5 (9) "Political committee" means a combination of two
6 or more individuals, or a person other than an individual,
7 the primary or incidental purpose of which is to support or
8 oppose a candidate or issue or to influence the result of an
9 election by any expenditure.

10 (10) "Individual" means a human being.

11 (11) "Person" means an individual, corporation,
12 association, firm, partnership, cooperative, committee,
13 club, union, or other organization or group of individuals,
14 or a candidate as defined in subsection (1) of this section.

15 Section 3. Reports of contributions and expenditures
16 required. (1) Each candidate and political committee shall
17 file periodic reports of contributions and expenditures made
18 by or on the behalf of a candidate or political committee.
19 All reports required by this section shall be filed with the
20 commissioner and with the county clerk and recorder of the
21 county in which a candidate is a resident or the political
22 committee has its headquarters. However, where residency
23 within a district, county, city, or town is not a
24 prerequisite for being a candidate, copies of all reports
25 shall be filed with the county clerk and recorder of the

1 county in which the election is to be held, or if the
2 election is to be held in more than one county, with the
3 clerk and recorder in the county that the commissioner shall
4 specify.

5 (2) In lieu of all contribution and expenditure
6 reports required by this act, the commissioner shall accept
7 copies of the reports filed by candidates for congress and
8 president of the United States, and their political
9 committees, pursuant to the requirements of federal law.

10 (3) Candidates for a state office filled by a
11 statewide vote of all the voters of Montana, the political
12 committees for such candidates, and political committees
13 organized to support or oppose a statewide issue, shall file
14 reports:

15 (a) on the tenth day of March and September, in each
16 year that an election is to be held, and on the fifteenth
17 and fifth days next preceeding the date on which an election
18 is held, and within twenty-four (24) hours after receiving a
19 contribution of five-hundred dollars (\$500) or more at any
20 time after the last pre-election report;

21 (b) not more than twenty (20) days after the date of
22 the election;

23 (c) on the tenth day of March and September of each
24 year following an election so long as there is an unexpended
25 balance or an expenditure deficit in a campaign account; and

1 (d) whenever a candidate or political committee
2 finally closes its books.

3 (4) Candidates for a state district office, including
4 but not limited to, candidates for the legislature, public
5 service commission, or district court judge, their political
6 committees, and political committees organized to support or
7 oppose district issues, shall file reports:

8 (a) on the tenth day next preceeding the date on which
9 an election is held, and within twenty-four (24) hours after
10 receiving a contribution of one hundred dollars (\$100) or
11 more at any time after the last pre-election report;

12 (b) not more than twenty (20) days after the date of
13 the election;

14 (c) whenever a candidate or political committee
15 finally closes its books.

16 (5) Candidates for any other public office, their
17 political committees, and political committees organized to
18 support or oppose local issues, shall be required to file
19 the reports specified in subsection (4) only if the total
20 amount of contributions received or the total amount of
21 funds expended for an election, excluding the filing fee
22 paid by the candidate, exceed two hundred dollars (\$200).

23 (6) All reports required by this section shall be
24 complete as of the date prescribed by the commissioner,
25 which shall not be less than five (5) or more than ten (10)

days before the date of filing as specified in subsections (2) through (5) of this section.

(7) The commissioner shall adopt rules and regulations that will permit political committees, including political parties, to file copies of a single comprehensive report when they support or oppose more than one candidate or issue.

(3) Reports filed under this section shall be filed to cover the following time periods:

(a) The initial report shall cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate as defined in subsection (1) of section 2 until the date prescribed by the commissioner for the filing of the appropriate initial report pursuant to subsections (2) through (5) of this section.

(b) Subsequent periodic reports shall cover the period of time from the closing of the previous report to a date prescribed by the commissioner, which shall not be less than five (5) days or more than ten (10) days before the date of filing;

(c) Final reports shall cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee.

Section 4. What reports must disclose. Each report

required by this act shall disclose: (1) The amount of cash on hand at the beginning of the reporting period.

(2) The full name and mailing address (occupation and the principal place of business, if any) of each person who has made aggregate contributions, other than loans, of twenty-five dollars (\$25) or more to the candidate or political committee (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fund-raising events) within the reporting period together with the aggregate amount of those contributions, and the total amount of contributions made by that person.

(3) The total sum of individual contributions made to or for the political committee or candidate and not reported under subsection (2) of this section.

(4) The name and address of each political committee or candidate from which the reporting committee or candidate received any transfer of funds together with the amount and dates of all those transfers.

(5) Each loan from any person during the reporting period together with the full names and mailing addresses (occupation and principal place of business, if any) of the lender and endorsers, if any, and the date and amount of each loan.

(6) The amount and nature of debts and obligations owed to a political committee or candidates in the form

1 prescribed by the commissioner.

2 (7) An itemized account of proceeds from:

3 (a) the sale of tickets to each dinner, luncheon,
4 rally, and other fund-raising events;

5 (b) mass collections made at such an event; and

6 (c) sales of items such as political campaign pins,
7 buttons, badges, flags, emblems, hats, banners, literature,
8 and similar materials.

9 (3) Each contribution, rebate, refund, or other
10 receipt not otherwise listed under subsections (2) through
11 (6) of this section during the reporting period.

12 (9) The total sum of all receipts received by or for
13 the committee or candidate during the reporting period.

14 (10) The full name and mailing address (occupation and
15 the principal place of business, if any) of each person to
16 whom expenditures have been made by the committee or
17 candidate during the reporting period, including the amount,
18 date, and purpose of each expenditure and the total amount
19 of expenditures made to each person.

20 (11) The full name and mailing addresses (occupation
21 and the principal place of business, if any) of each person
22 to whom an expenditure for personal services, salaries, and
23 reimbursed expenses have been made, including the amount,
24 date, and purpose of that expenditure and the total amount
25 of expenditures made to each person.

1 (12) The total sum of expenditures made by a political
2 committee or candidate during the reporting period.

3 (13) The name and address of each political committee
4 or candidate to which the reporting committee or candidate
5 made any transfer of funds together with the amount and
6 dates of all those transfers.

7 (14) The name of any person to whom a loan was made
8 during the reporting period, including the full name and
9 mailing address (occupation and principal place of business,
10 if any) of that person, and the full name and mailing
11 address (occupation and principal place of business, if any)
12 of the endorsers, if any, and the date and amount of each
13 loan.

14 (15) The amount and nature of debts and obligations
15 owed by a political committee or candidate in the form
16 prescribed by the commissioner.

17 (16) Other information that may be required by the
18 commissioner to fully disclose the sources and disposition
19 of funds used to support or oppose candidates.

20 Section 5. Reports must be certified as true and
21 correct. (1) A report required by this act to be filed by a
22 candidate or political committee shall be verified as true
23 and correct by the oath or affirmation of the individual
24 filing the report. The individual filing the report shall
25 be the candidate or an officer of a political committee who

1 is on file as an officer of the committee with the
2 commissioner. The oath or affirmation shall be made before
3 an officer authorized to administer oaths.

4 (2) A copy of a report or statement shall be preserved
5 by the individual filing it for a period of time to be
6 designated by the commissioner.

7 (3) The commissioner may promulgate rules and
8 regulations regarding the extent to which organizations that
9 are not primarily political committees, but are incidentally
10 political committees shall report their politically related
11 activities in accordance with this act.

12 Section 6. Campaign treasurer and campaign depository.

13 (1) Each candidate for nomination or election to office and
14 each political committee shall appoint one (1) campaign
15 treasurer. No contribution shall be received or expenditure
16 made by or on behalf of a candidate or political committee
17 until the candidate or political committee appoints a
18 campaign treasurer and certifies the name and address of the
19 campaign treasurer pursuant to this section. The
20 certification, which shall include an organizational
21 statement, properly acknowledged by a notary public, and
22 setting forth of the name and address of the campaign
23 treasurer and all other officers, if any, of the political
24 committee, shall be filed with the commissioner and the
25 appropriate county clerk and recorder as specified for the

1 filing of reports in section 3.

2 (2) A campaign treasurer may appoint deputy campaign
3 treasurers, but not more than one (1) in each county in
4 which the campaign is conducted. Each candidate and
5 political committee shall certify the full name and complete
6 address of the campaign treasurer and all deputy campaign
7 treasurers with the office with whom the candidate or the
8 political committee is required to file reports.

9 (3) Any campaign or deputy campaign treasurer
10 appointed pursuant to this section shall be a registered
11 voter in this state. An individual may be appointed and
12 serve as a campaign treasurer of a candidate and a political
13 committee or two (2) or more candidates and political
14 committees. A candidate may appoint himself as his own
15 campaign or deputy campaign treasurer. No individual may
16 serve as a campaign or deputy campaign treasurer or perform
17 any duty required of a campaign or deputy campaign treasurer
18 of a candidate or political committee until he has been
19 designated and his name certified by the candidate or
20 political committee.

21 (4) Deputy campaign treasurers may exercise any of the
22 powers and duties of a campaign treasurer as set forth in
23 this act when specifically authorized in writing to do so by
24 the campaign treasurer and the candidate in the case of a
25 candidate, or the campaign treasurer and the chairman of the

1 political committee in the case of a political committee.

2 (5) A candidate or political committee may remove his
3 or its campaign or deputy campaign treasurer. The removal
4 of any treasurer or deputy treasurer shall immediately be
5 reported to the officer with whom the name of the campaign
6 treasurer was originally filed. In case of death,
7 resignation, or removal of his or its campaign treasurer
8 before compliance with any obligation of a campaign
9 treasurer under this act, the candidate or political
10 committee shall appoint a successor and certify the name and
11 address of the successor as specified in subsection (1) of
12 this section.

13 (6) Each candidate and each political committee shall
14 designate one (1) primary campaign depository for the
15 purpose of depositing all contributions received and
16 disbursing all expenditures made by the candidate or
17 political committee. The candidate or political committee
18 may also designate one (1) secondary depository in each
19 county in which an election is held and in which the
20 candidate or committee participates. Deputy campaign
21 treasurers may make deposits in and make expenditures from
22 secondary depositories when authorized to do so as provided
23 in subsection (4) of this section. Only a bank authorized
24 to transact business in Montana may be designated as a
25 campaign depository. The candidate or political committee

1 shall file the name and address of each primary and
2 secondary depository so designated at the same time and with
3 the same officer with whom the candidate or committee files
4 the name of his or its campaign treasurer pursuant to
5 subsection (1) of this section. Nothing in this subsection
6 shall prevent a political committee or candidate from having
7 more than one campaign account in the same depository.

8 Section 7. Deposit of contributions--statement of
9 campaign treasurer. All funds received by the campaign
10 treasurer or any deputy campaign treasurer of any candidate
11 or political committee shall be deposited prior to the end
12 of the fifth business day following their receipt (Sundays
13 and holidays excluded) in a checking account in a campaign
14 depository designated pursuant to section 6 of this act. A
15 statement showing the amount received from or provided by
16 each person and the account in which the funds are deposited
17 shall be prepared by the campaign treasurer at the time the
18 deposit is made. This statement along with the receipt form
19 for cash contributions deposited at the same time and a
20 deposit slip for the deposit shall be kept by the treasurer
21 as a part of his records.

22 Section 8. Treasurer to keep records--inspections.
23 (1) The campaign treasurer of each candidate and each
24 political committee shall keep detailed accounts, current
25 within not more than ten (10) days after the date of

receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a statement filed under this act.

(2) Accounts kept by the campaign treasurer of a candidate or political committee may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by the campaign treasurer of any opposing candidate or political committee in the same electoral district. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction. The campaign treasurers of political committees supporting a candidate may be joined with the campaign treasurer of the candidate as respondents in such a proceeding.

(3) Accounts kept by a campaign treasurer of a candidate shall be preserved by the campaign treasurer for a period coinciding with the term of office for which the person was a candidate.

Section 9. Petty cash funds allowed. (1) The campaign treasurer for each candidate or political committee is authorized to withdraw the following amount each week from the primary depository for the purpose of providing a petty cash fund for the candidate or political committee:

(a) for all candidates for nomination or election on a statewide basis and all political committees operating on a statewide basis, one hundred dollars (\$100) per week; and

(b) for all other candidates and political committees, twenty dollars (\$20) per week.

(2) The petty cash fund may be spent for office supplies, transportation expenses, and other necessities in an amount of less than ten dollars (\$10). Petty cash shall not be used for the purchase of time, space, or services from any communications medium.

Section 10. Commissioner--how appointed, qualifications, and offices. (1) There is hereby created the position of commissioner of campaign finances and practices, who shall be appointed by a majority of a four (4) member selection committee which shall be comprised of the speaker of the house, the president of the senate and the minority floor leaders of both houses of the Montana legislature. However, if a majority of the members of the selection committee cannot agree upon the selection of a commissioner within thirty (30) days after the passage and approval of this act, the Montana supreme court shall appoint a fifth public member to the selection committee. The majority of the five (5) members of the selection committee shall then select the commissioner.

(2) The individual selected to serve as the

1 commissioner of campaign finances and practices shall be
 2 appointed for a five (5) year term, but he shall thereafter
 3 be ineligible to serve as the commissioner of campaign
 4 finances and practices and shall be precluded from being a
 5 candidate for public office as defined in this act for a
 6 period of five (5) years from the time that his term as
 7 commissioner expires.

8 (3) If for any reason a vacancy should occur in the
 9 position of commissioner, a successor shall be appointed
 10 within thirty (30) days as provided in subsection (1) to
 11 serve out the unexpired term. An individual who is selected
 12 to serve out the unexpired term of a preceding commissioner
 13 shall be entitled to be reappointed for a five (5) year term
 14 as provided in subsection (3).

15 (4) The commissioner may be removed from office by
 16 impeachment as provided in sections 95-2801 and 95-2802,
 17 R.C.M. 1947. He may also be prosecuted by the appropriate
 18 county attorney for official misconduct as specified in
 19 section 94-7-401, R.C.M. 1947.

20 (5) The commissioner of campaign finances and
 21 practices shall receive the same salary as a state district
 22 court judge and shall receive the same salary increases
 23 awarded such judges.

24 (6) The office of the commissioner shall be attached
 25 to the office of the secretary of state for administrative

1 purposes only as specified in section 82A-108, except that
 2 the provisions of subsections (1)(b), (1)(c), (2)(a),
 3 (2)(b), (2)(d), (2)(e), and (3)(a) of section 82A-103,
 4 R.C.M. 1947, do not apply.

5 Section 11. Powers and duties of the commissioner. The
 6 commissioner shall exercise the following powers and perform
 7 the following duties: (1) The commissioner of campaign
 8 finances and practices shall be responsible for
 9 investigating all of the alleged violations of the election
 10 laws contained in Title 23, R.C.M. 1947, and shall in
 11 conjunction with the county attorneys, be responsible for
 12 enforcing all of the state's election laws.

13 (2) The commissioner shall select an appropriate staff
 14 to enforce the provisions of Title 23, R.C.M. 1947, and he
 15 shall have the power to hire and fire all personnel under
 16 his supervision.

17 (3) The commissioner may hire or retain attorneys who
 18 are properly licensed to practice before the supreme court
 19 of the state of Montana to prosecute violations of Title 23,
 20 R.C.M. 1947. Any properly licensed attorney so retained or
 21 hired shall exercise the powers of a special attorney
 22 general and he shall have the power to prosecute, subject to
 23 the control and supervision of the commissioner and the
 24 provisions of section 13, any criminal or civil action
 25 arising out of a violation of any provision of Title 23,

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1 R.C.M. 1947. All prosecutions shall be brought in the state
2 district court for the county in which a violation has
3 occurred or in the district court for Lewis and Clark
4 County. The authority to prosecute as prescribed by this
5 section includes the authority to:

6 (a) institute proceedings for the arrest of persons
7 charged with or reasonably suspected of criminal violations
8 of Title 23, R.C.M. 1947;

9 (b) attend and give advice to a grand jury when cases
10 involving criminal violations of Title 23, R.C.M. 1947, are
11 presented;

12 (c) draw and file indictments, informations, and
13 criminal complaints;

14 (d) prosecute all actions for the recovery of debts,
15 fines, penalties, and forfeitures accruing to the state or
16 county from persons convicted of violating Title 23, R.C.M.
17 1947; and

18 (e) do any other act necessary to successfully
19 prosecute a violation of any provision of Title 23, R.C.M.
20 1947.

21 (4) The commissioner shall prescribe forms for
22 statements and other information required to be filed
23 pursuant to Title 23, R.C.M. 1947, and furnish forms and
24 appropriate information to persons required to file
25 statements and information.

1 (5) The commissioner shall prepare and publish a
2 manual prescribing a uniform system for accounts for use by
3 persons required to file statements pursuant to Title 23,
4 R.C.M. 1947.

5 (6) The commissioner shall accept and file any
6 information voluntarily supplied that exceeds the
7 requirements of Title 23, R.C.M. 1947.

8 (7) The commissioner shall prescribe the manner in
9 which the county clerks and recorders shall receive, file,
10 collate, and maintain reports filed with them under Title
11 23, R.C.M. 1947.

12 (8) The commissioner shall make statements and other
13 information filed with his office available for public
14 inspection and copying during regular office hours, and make
15 copying facilities available free of charge or at a charge
16 not to exceed actual cost.

17 (9) The commissioner shall preserve statements and
18 other information filed with his office for a period of ten
19 (10) years from date of receipt.

20 (10) The commissioner shall prepare and publish
21 summaries of the statements received.

22 (11) The commissioner shall prepare and publish such
23 other reports as he may deem appropriate.

24 (12) The commissioner shall provide for wide public
25 dissemination of summaries and reports.

1 (13) The commissioner shall have the authority to
 2 investigate all statements filed pursuant to the provisions
 3 of Title 23, R.C.M. 1947, and shall also investigate alleged
 4 failures to file any statement or the alleged falsification
 5 of any statement filed pursuant to the provisions of Title
 6 23, R.C.M. 1947. Upon the submission of a written complaint
 7 by any individual, the commissioner shall also investigate
 8 any other alleged violation of the provisions of Title 23,
 9 R.C.M. 1947, or any rule or regulation adopted pursuant
 10 thereto.

11 (14) The commissioner shall promulgate and publish
 12 rules and regulations to carry out the provisions of Title
 13 23, R.C.M. 1947, and shall promulgate such rules in
 14 conformance with the Montana Administrative Procedure Act.

15 (15) The commissioner shall at the close of each
 16 fiscal year report to the legislature and the governor
 17 concerning the action he has taken, including the names,
 18 salaries, and duties of all individuals in his employ and
 19 the money he has disbursed. The commissioner shall also
 20 make further reports on the matters within his jurisdiction
 21 as the legislature may prescribe and shall also make
 22 recommendations for further legislation as may appear
 23 desirable.

24 (16) The commissioner shall be responsible for
 25 preparing, administering and allocating the budget for his

1 office.

2 (17) The commissioner shall have the power to inspect
 3 any records, accounts or books that must be kept pursuant to
 4 the provisions of Title 23, R.C.M. 1947, which are held by
 5 any political committee or candidate so long as such
 6 inspection is made during reasonable office hours.

7 (18) The commissioner shall have the power to issue
 8 orders of noncompliance as prescribed by section 12.

9 (19) The commissioner shall exercise all of the powers
 10 conferred upon him by this act or any other provision of
 11 state law in any jurisdiction or political subdivision of
 12 the state.

13 (20) After receiving the final campaign contribution
 14 and expenditure report filed as required by Title 23, R.C.M.
 15 1947, the commissioner shall inform the secretary of state,
 16 or the city or county clerk and recorder that each candidate
 17 who has been properly elected to any public office has filed
 18 his final contribution and expenditure report as specified
 19 in section 3 of this act.

20 (21) The commissioner shall have the authority to
 21 administer oaths and affirmations, subpoena witnesses,
 22 compel their attendance, take evidence, and require the
 23 production of any books, papers, correspondence, memoranda,
 24 bank account statements of a political committee or
 25 candidate, or other records which are relevant or material

1 for the purpose of conducting any investigation pursuant to
2 the provisions of Title 23, R.C.M. 1947.

3 Section 12. Examination of statements and issuance of
4 orders of noncompliance. (1) Each statement filed with the
5 commissioner during an election or within sixty (60) days
6 thereafter shall be inspected within ten (10) days after the
7 date upon which the statement is filed. If a person has not
8 satisfied the provisions of Title 23, R.C.M. 1947, the
9 commissioner shall immediately notify a person of the
10 noncompliance. Such an order of noncompliance shall be
11 issued when:

12 (a) upon examination of the official ballot, it
13 appears that the person has failed to file a statement as
14 required by law or that a statement filed by a person does
15 not conform to law; or

16 (b) it is determined that a statement filed with the
17 commissioner does not conform to the requirements of Title
18 23, R.C.M. 1947, or that a person has failed to file a
19 statement required by law.

20 (2) If an order of noncompliance is issued during a
21 campaign period, or within sixty (60) days after an
22 election, a candidate or political committee shall submit
23 the necessary information five (5) days after receiving the
24 notice of noncompliance. Upon a failure to submit the
25 required information within the time specified, the

1 appropriate county attorney or the commissioner shall have
2 the authority to initiate a civil or criminal action
3 pursuant to the procedures outlined in section 13.

4 (3) If an order of noncompliance is issued during any
5 other period than that described in subsection (2), a
6 candidate or political committee shall submit the necessary
7 information within ten (10) days after receiving the notice
8 of noncompliance. Upon a failure to submit the required
9 information within the time specified, the appropriate
10 county attorney or the commissioner shall initiate a civil
11 or criminal action pursuant to the procedures outlined in
12 section 13.

13 (4) A candidate or political treasurer aggrieved by
14 the issuance of an order of noncompliance may seek judicial
15 review in the district court of the county in which the
16 candidate resides or the county in which the political
17 committee has its headquarters. All petitions for judicial
18 review filed pursuant to this act shall be expeditiously
19 reviewed by the appropriate district court.

20 (5) Within one hundred and twenty (120) days after the
21 date of each election, the commissioner shall examine and
22 compare each statement or report filed with the commissioner
23 pursuant to the provisions of Title 23, R.C.M. 1947, to
24 determine whether a statement or report conforms to the
25 provisions of the law. The examination shall include a

1 comparison of all reports and statements received by the
2 commissioner pursuant to the requirements of Title 23,
3 R.C.M. 1947. The commissioner may investigate the source
4 and authenticity of any contribution or expenditure listed
5 in any report or statement filed pursuant to Title 23,
6 R.C.M. 1947, or the alleged failure to report any
7 contribution or expenditure required to be reported pursuant
8 to Title 23, R.C.M. 1947.

9 Section 13. Prosecutions and powers of the county
10 attorney. (1) When the commissioner determines that there
11 appears to be sufficient evidence to justify a civil or
12 criminal prosecution as specified in section 18, he shall
13 notify the county attorney of the county in which the
14 alleged violation occurred and shall arrange to transmit to
15 the county attorney all information relevant to the alleged
16 violation. If the county attorney fails to initiate the
17 appropriate civil or criminal action within thirty (30) days
18 after he receives notification of the alleged violation, the
19 commissioner may then initiate the appropriate legal action.

20 (2) A county attorney may at any time prior to the
21 expiration of the thirty (30) day time period specified in
22 subsection (1) waive his right to prosecute and thereby
23 authorize the commissioner to initiate the appropriate civil
24 or criminal action as specified in section 18.

25 (3) The provisions of subsection (1) do not apply to a

1 situation in which the alleged violation has been committed
2 by the county attorney of a county. In this instance, the
3 commissioner is authorized to directly prosecute any alleged
4 violation of Title 23, R.C.M. 1947.

5 (4) If a prosecution is undertaken by the
6 commissioner, all court costs associated with the
7 prosecution shall be paid by the state of Montana.

8 (5) Nothing in this act shall prevent a county
9 attorney from inspecting any records, accounts, or books
10 which must be kept pursuant to the provisions of Title 23,
11 R.C.M. 1947, that are held by any political committee or
12 candidate involved in an election to be held within the
13 county. However, such inspections must be conducted during
14 reasonable office hours.

15 (6) A county attorney shall have the authority to
16 administer oaths and affirmations, subpoena witnesses,
17 compel their attendance, take evidence, and require the
18 production of any books, correspondence, memoranda, bank
19 account statements of a political committee or candidate, or
20 other records which are relevant or material for the purpose
21 of conducting any investigation pursuant to the provisions
22 of Title 23, R.C.M. 1947.

23 Section 14. Right to inspect current accounts and
24 reports. Every individual shall have the right to inspect
25 any report or current account that must be kept or filed

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pursuant to the provisions of Title 23, R.C.M. 1947, but only if such inspection will occur during reasonable office hours and in such a manner that normal office functions will not be unnecessarily interrupted.

Section 15. Duties of county clerk and recorder.

(1) A county clerk and recorder shall maintain all records and statements filed pursuant to the provisions of Title 23, R.C.M. 1947, for a period of ten (10) years from the date of receipt.

(2) A county clerk and recorder shall accept and file any information voluntarily supplied that exceeds the requirements of Title 23, R.C.M. 1947.

(3) A county clerk and recorder shall file, code, and cross-index all reports and statements filed as prescribed by the commissioner.

(4) A county clerk and recorder shall make statements and other information filed with his office available for public inspection and copying during regular office hours, and make copying facilities available free of charge or at a charge not to exceed actual cost.

Section 16. Names not to be printed on ballot.

(1) The name of a candidate shall not be printed on the official ballot for a general or special election if the candidate or a political treasurer for a candidate fails to file any statement as required by Title 23, R.C.M. 1947.

(2) A vacancy on an official ballot under this section may be filled in the manner provided by law, but not by the name of the same candidate.

(3) In carrying out the mandate of this section, the commissioner must by a written statement notify the secretary of state or the city or county clerk or the clerk of a school district, that a candidate, or a candidate's political treasurer, has not complied with the provisions of Title 23, R.C.M. 1947, as described in subsection (1) and that a candidate's name should not be printed on the official ballot.

Section 17. Certificates of election may be withheld. No certificate of election shall be granted to any candidate until his political treasurer has filed the reports and statements that must be filed pursuant to the provisions of Title 23, R.C.M. 1947. No candidate for an elective office may assume the powers and duties of that office until he has received a certificate of election as provided by law. A certificate of election shall only be issued by the public official responsible for issuing a certificate or commission after receiving written assurance from the commissioner that a candidate has filed all of the reports that must be filed pursuant to the provisions of Title 23, R.C.M. 1947.

Section 18. Penalties. (1) A person who falsely reports or deliberately fails to include any information

1 required by Title 23, R.C.M. 1947, or who falsely reports
2 or deliberately fails to report any contribution or
3 expenditure as required by Title 23, R.C.M. 1947, may be
4 guilty of false swearing, or unsworn falsification to
5 authorities as applicable and upon conviction shall be
6 punished as provided in sections 94-7-203 or 94-7-204 for
7 each separate violation.

8 (2) Any person who accepts a contribution prohibited
9 by Title 23, R.C.M. 1947, or makes a contribution in excess
10 of the amounts specified in Title 23, R.C.M. 1947, or in any
11 manner other than that provided in Title 23, R.C.M. 1947, is
12 guilty of a violation and upon conviction shall be fined not
13 to exceed one thousand dollars (\$1,000) or be imprisoned in
14 the county jail for a term not to exceed six (6) months, or
15 both, for each separate violation.

16 (3) Any person who violates any other provision of
17 Title 23, R.C.M. 1947, upon conviction, shall be fined not
18 to exceed one thousand dollars (\$1,000) or be imprisoned in
19 the county jail for a term not to exceed six (6) months, or
20 both, for each separate violation.

21 (4) If a court of competent jurisdiction finds that
22 the violation of any provision of Title 23, R.C.M. 1947, by
23 any candidate or political committee probably affected the
24 outcome of any election, the result of that election may be
25 held void and a special election held within sixty (60) days

1 of that finding, or where the violation occurred during a
2 primary election, the court may direct the appropriate
3 political party to select a new candidate according to the
4 provisions of state law and the custom of the party. Any
5 action to void an election shall be commenced within one (1)
6 year of the date of the election in question.

7 (5) Except as provided in subsection (4), any action
8 brought pursuant to the provisions of Title 23, R.C.M. 1947,
9 must be commenced within four (4) years after the date when
10 the violation occurred.

11 (6) In addition to all other penalties prescribed by
12 this act:

13 (a) Any candidate who is convicted of violating any
14 provision of Title 23, R.C.M. 1947, shall be ineligible to
15 be a candidate for any public office in the state of Montana
16 for a period of five (5) years from the date of conviction;

17 (b) Any campaign treasurer who is convicted of
18 violating any provision of Title 23, R.C.M. 1947, shall be
19 ineligible to be a candidate for any public office or to
20 hold the position of campaign treasurer in any campaign in
21 the state of Montana for a period of five (5) years from the
22 date of conviction.

23 (7) In any action brought pursuant to the provisions
24 of Title 23, R.C.M. 1947, the appropriate state district
25 court shall have the power to enjoin any person to prevent

the doing of any act herein prohibited, or to compel the performance of any act herein required.

(8) Nothing in this section shall prevent a county attorney or the commissioner from seeking a penalty otherwise specifically provided for in Title 23, R.C.M. 1947.

(9) All fines and forfeitures imposed pursuant to this section shall be deposited in the state general fund.

Section 19. Citizen's right to sue. Any person residing within a jurisdiction in which an election occurs may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Title 23, R.C.M. 1947. However, a court may not entertain a suit filed pursuant to this section unless the plaintiff has filed a complaint with the commissioner prior to seeking injunctive relief. The court may award to a plaintiff or a defendant who prevails his costs of litigation, including reasonable attorney's fees.

Section 20. Secretary of state must furnish copies of this act to appropriate officials. The secretary of state shall, at the expense of the state, furnish the county clerk, and the city and town clerks, copies of Title 23, chapter 47, R.C.M. 1947. The public official with whom a candidate files a declaration or certificate of nomination shall transmit a copy of Title 23, chapter 47, R.C.M. 1947,

to the candidate. Such copies shall also be furnished to any other person required to file a statement. Upon his own information, or at the written request of any voter, the secretary of state shall provide a copy of Title 23, chapter 47, R.C.M. 1947, to any other individual who may be a candidate, or who may otherwise be required to make a statement required by this act.

Section 21. Section 23-4701, R.C.M. 1947, is amended to read as follows:

"23-4701. Violation of election laws by certain officers a felony misdemeanor. Every person charged with the performance of any duty, under the provisions of any law of this state relating to elections, or the registration of the names of electors, or the canvassing of the returns of election, who willfully neglects or refuses to perform such duty, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is, ~~unless a different punishment for such acts or omissions is prescribed by this code,~~ punishable by fine not exceeding one thousand dollars (\$1,000), or by imprisonment in ~~the state prison~~ a county jail not exceeding five years six (6) months, or both."

Section 22. Severability. It is the intent of the legislative assembly that if part of this act is invalid, all valid parts that are severable from the invalid part

1 remain in effect. If a part of this act is invalid in one
2 or more of its applications, the part remains in effect in
3 all valid applications that are severable from the invalid
4 applications.

5 Section 23. Effective date. This act shall become
6 effective on January 1, 1976, and the first reporting period
7 for any existing candidate or political committee shall
8 begin on the effective date of this act.

9 Section 24. Sections 23-4722, 23-4725, 23-4726,
10 23-4728.1, 23-4729, 23-4730, 23-4731, 23-4733 through
11 23-4736, 23-4750, 23-4755, 23-4761, 23-4769, 23-4772, and
12 23-4775, R.C.M. 1947, are repealed.

-End-